THE ORDINANCES

OF THE

NORTH-WEST TERRITORIES

BEING AN OFFICE CONSOLIDATION

of such of the Ordinances of the North-West Territories in force on August 21st, 1905, as the same appear in the

CONSOLIDATION OF 1898

and the Amendments thereto, together with the Public General Ordinances enacted by the Legislature of the North-West Territories after the year 1898, as have not been replaced by

STATUTES OF THE LEGISLATURE OF THE PROVINCE OF ALBERTA

Together with the amendments made thereto by the said Legislature up to and including 1915.



EDMONTON:
J. W. JEFFERY, GOVERNMENT PRINTER
1915

CONSOLIDATED ORDINANCES

OF THE

NORTH-WEST TERRITORIES OF 1898

AND

AMENDMENTS AND SUBSTITUTIONS

UP TO AND INCLUDING 1915

Chapters numbered as in the Office Consolidation, 1905.

TITLE I.

PRELIMINARY.

CHAPTER 1.

An Ordinance respecting the Form and Interpretation of Ordinances.

(C.O., c. 1)

Chapter 3, 1906, substituted.

TITLE II.

LEGISLATURE: EXECUTIVE AND GENERAL GOVERNMENT.

CHAPTER 2.

An Ordinance respecting the Legislative Assembly of the Territories.

(C.O., c. 2)

Chapter 2, 1909, substituted.

CHAPTER 3.

An Ordinance respecting Elections.

(C.O., c. 3)

Chapter 3, 1909, substituted.

CHAPTER 4.

An Ordinance respecting Controverted Elections.

(C.O., c. 4)

Chapter 2, 1907, substituted.

CHAPTER 5.

An Ordinance respecting the Public Service of the Territories.

(C.O., c. 5)

Chapter 4, 1906, substituted.

CHAPTER 6.

An Ordinance respecting the Department of the Attorney General.

(C.O., c. 6)

Chapter 6, 1906, substituted.

CHAPTER 7.

An Ordinance respecting the Department of the Territorial Secretary.

(C.O., c. 7)

Chapter 7, 1906, substituted.

CHAPTER 8.

An Ordinance respecting the Department of Agriculture.

(C.O., c. 8)

Chapter 8, 1906, substituted.

CHAPTER 9.

An Ordinance respecting Public Works.

(C.O., c. 9)

Chapter 10, 1906, substituted.

CHAPTER 10.

An Ordinance respecting the Treasury Department and the Auditing of Public Accounts.

(C.O., c. 10)

Chapter 5, 1906, substituted.

CHAPTER 11.

An Ordinance respecting Public Printing.

(C.O., c. 11)

Chapter 9, 1906, substituted.

CHAPTER 12.

An Ordinance respecting Inquiries concerning Public Matters.

(C.O., c. 12)

Chapter 2, 1908, substituted.

CHAPTER 13.

An Ordinance respecting Security to be given by Public Officers.

(C.O., c. 13)

Chapter 10, 1908, substituted.

CHAPTER 14.

An Ordinance respecting the Registration of Births, Marriages and Deaths.

(C.O., c. 14)

Chapter 13, 1907, substituted.

CHAPTER 15.

An Ordinance respecting the Expropriation of Lands.

(Repealed, 1901, c. 4, s. 78.)

CHAPTER 16.

An Ordinance to make Regulations with respect to Coal Mines.

(C.O., c. 16)

Chapter 25, 1906, substituted.

CHAPTER 17.

An Ordinance respecting Steam Boilers.

(1901, c. 7)

Chapter 23, 1906, substituted.

CHAPTER 18.

An Ordinance respecting Ferries.

(Repealed, 1901, c. 4, s. 78.)

CHAPTER 19.

An Ordinance respecting Public Health.

(1902, c. 4)

Chapter 17, 1910 (2nd Session), substituted.

CHAPTER 20.

An Ordinance to regulate Public Aid to Hospitals.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Hospitals Ordinance.*" 1901, c. 8, s. 1.

INTERPRETATION.

Interpretation

2. In this Ordinance unless the context otherwise requires—

Commissioner

1. The expression "commissioner" means the Commissioner of Agriculture;

Department

2. The expression "department" means the Department of Agriculture;

Patient

3. The expression "patient" means every person admitted to a hospital for actual treatment and stay upon the order of a duly qualified medical practitioner. 1901, c. 8, s. 2.

Aid to hospitals

3. To each hospital in the province filing with the department the returns mentioned in section 6 of this Ordinance, there may be paid out of any moneys appropriated in that behalf by the Legislative Assembly the sum of twenty-five cents per day for each day's actual treatment and stay of every patient in such hospital. 1910, c. 2, s. 2; 1911-12, c. 4, s. 4.

4. *Repealed*, 1907, c. 5, s. 12, ss. (2).

Lieutenant Governor in Council may prescribe regulations

5. The Lieutenant Governor in Council may prescribe regulations respecting the management, maintenance and accommodation of all hospitals receiving public aid under this Ordinance. 1901, c. 8, s. 5. (See page 37 hereof for the regulations made under this section.)

RETURNS.

When and how returns to be made

6. Any hospital receiving aid from the province shall forward to the department by registered mail within thirty days after the thirtieth day of June and thirty-first day of December of each year a return showing the number of days' actual treatment and stay of every patient in such hospital for the preceding six months, and the commissioner may from time to time fix and direct the particulars to be contained in and the form, manner and time of making returns; and shall fix and direct the form and manner of oath, affirmation or declaration required for the verification of any such return and the person or persons by whom such oath shall be made. 1901, c. 8, s. 6; 1907, c. 5, s. 12.

INSPECTION OF HOSPITALS.

Inspection of hospitals

7. The commissioner may appoint one or more inspectors to inspect and report upon every such hospital; and for such purpose such inspector or inspectors shall make all proper inquiries as to the maintenance, management and affairs thereof, and by examination of the registers and by such other means as may be deemed necessary satisfy himself or themselves as to the correctness of any returns made under this Ordinance.

(2) If any inspector should report that any patient was not a fit subject for hospital treatment for all or part of the time during which he was kept in the hospital the commissioner may refuse to make any payment in respect of such patient for the time during which he is so reported as not being a fit subject for hospital treatment. 1901, c. 8, s. 7.

FALSE RETURNS.

Penalty for making false return

8. Any person who knowingly and wilfully makes or is a party to or procures to be made directly or indirectly any false return under this Ordinance shall thereby incur a penalty of $100, which penalty may be recovered with costs by civil action or proceeding at the suit of the Attorney General in any form allowed by law in the Supreme Court of the Territories. 1901, c. 8, s. 8.

Repeal

9. *The Hospitals Ordinance,* being chapter 20 of The Consolidated Ordinances, 1898, is hereby repealed. 1901, c. 8, s. 9.

Commencement

10. This Ordinance shall come into force on the first day of July, A.D. 1901. 1901, c. 8, s. 10.

REGULATIONS

(Inserted for convenience only and subject to change by Order in Council.)

Prescribed under Section 5, respecting the management, maintenance and accommodation of all hospitals in The Province of Alberta receiving public aid.

1. These regulations shall apply to hospitals receiving public aid under *The Hospitals Ordinance* only.

2. In these regulations unless the context otherwise requires—

(*a*) The expression "aid" shall mean public aid granted under *The Hospitals Ordinance.*

(*b*) The expression "ward" shall mean every room in the hospital occupied or to be occupied by patients for treatment.

3. All plans and specifications for the building of, or addition to, or alterations in hospitals, shall, before such work is begun, be submitted to the Provincial Medical Officer of Health for approval, and until such approval is given no work shall be commenced on the construction of any hospital.

4. Every hospital hereafter built or constructed over three stories in height shall be fireproof throughout.

5. In any building already constructed wholly or mainly of wood used as a hospital, of three or more stories high, no patient shall be accommodated or treated above the second storey.

6. In every hospital, each ward shall be of such dimensions as to give each patient at least 800 cubic feet of air space; every room therein shall have at least one window connected with external air for every two beds; and provision shall be made to secure to each patient at least 2,400 cubic feet of fresh air per hour, either by artificial or natural ventilation.

7. The cellar or basement floor of every hospital shall be properly cemented and water-tight.

8. Each floor of every hospital shall have a corridor or hall running from one end to the other without obstruction, and the door into each ward shall open from said hall or corridor.

9. The windows and doors of every hospital shall be properly screened so as to prevent the entrance of flies.

10. Every hospital shall be provided, within the building, with adequate water hose, and chemical fire extinguishers or other fire apparatus, satisfactory to the Provincial Medical Officer of Health and shall be provided with fire escapes outside the building wall, of such shape and size that will permit bed-ridden patients to be safely removed therefrom, and the same shall be satisfactory to the Provincial Medical Officer of Health.

11. There shall be provided in every hospital a clinical laboratory equipped to the satisfaction of the Provincial Medical Officer of Health.

12. Every hospital shall be provided with proper means for disinfecting all clothing, bed linen, blankets and mattresses used in every case of typhoid fever, tuberculosis, or other infectious, contagious or communicable disease, and the same shall be disinfected immediately after removal from bed of patient.

13. There shall be provided in every hospital a suitable building or room to be used as a mortuary, and the same shall be equipped to the satisfaction of the Provincial Medical Officer of Health.

14. There shall be employed in every hospital at least two graduate nurses.

15. A graduate nurse shall be in charge of the operation room in every hospital.

16. There shall be provided in connection with every hospital, accommodation for cases of pulmonary tuberculosis, either in separate rooms, buildings or tents, properly equipped; provided

that in any municipality where a special hospital is maintained for the treatment of pulmonary tuberculosis, the other hospitals in that municipality may be relieved of the requirement.

17. There shall be provided in every hospital, accommodation for the treatment of cases of delirium tremens or other acute delirium.

18. There shall be provided in every hospital, accommodation for the care and treatment of maternity cases.

19. Every secretary or superintendent of every hospital shall send a weekly report every Monday to the local medical officer of health, showing the number of cases of typhoid fever, or pulmonary tuberculosis admitted during the preceding week, and giving the name and residence of every such patient and the total number of such cases in the hospital at the date of said report, according to form A hereto or to the like effect.

20. Every superintendent or secretary shall keep in every hospital a complete record of all cases submitted to such hospital and such record shall be according to form B hereto or to the like effect.

21. Every superintendent or secretary of every hospital shall keep a record of all illegitimate children born therein, according to form C hereto or to the like effect, and shall make a monthly report to the Superintendent of Neglected and Dependent Children.

22. Every superintendent or secretary of every hospital shall make an annual return of the movement of patients according to form D hereto or to the like effect.

23. No grant shall be made under *The Hospitals Ordinance* to any hospital for patients admitted thereto for a longer period than one hundred and twenty consecutive days.

24. For the purpose of these regulations, three months' continuous residence in any city, town, village or rural municipality in the Province of Alberta, shall constitute *bona fide* residence in such city, town, village or rural municipality.

25. When any indigent person is admitted, cared for, or treated in a hospital, the actual expenses incurred thereby or in connection therewith, except medical or surgical fees, shall be paid by the city, town, village or rural municipality of which such indigent person is a *bona fide* resident. The onus of proving that such indigent person is not a *bona fide* resident of any municipality as mentioned in this section, shall be on the city, town, village or rural municipality charged.

26. In the case of the death of any indigent person as mentioned in section 25, the city, town, village or rural municipality of which such deceased person was a *bona fide* resident, shall pay to the hospital in which such death occurred the expenses in

connection with the burial of such deceased person to an amount not exceeding $15.00.

27. Any municipality may make an agreement with the trustees or governing body of any hospital, to pay a fixed annual or per capita sum for the treatment of its indigent residents, and when such agreement is made, there shall be no further liability under these regulations except for burial expenses on the part of the municipality.

28. Nothing in these regulations contained shall exempt the estate of any deceased person from liability to pay for the care and treatment or the burial expenses of such person.

29. No aid shall be granted under *The Hospitals Ordinance* to any hospital hereafter established in any town, village or rural municipality in which a hospital receiving government aid is already established and in operation, unless such additional hospital is established with the approval of the Lieutenant Governor in Council.

30. During the period of noncompliance with any of the provisions of these regulations by any hospital, no aid under *The Hospitals Ordinance* shall be granted to said hospital.

31. Every hospital receiving aid under *The Hospitals Ordinance* may be inspected by the Provincial Medical Officer of Health, or anyone appointed by him, at least twice yearly.

PROVINCE OF ALBERTA

Form A

THE HOSPITALS ORDINANCE

Weekly return of cases of Typhoid and Pulmonary Tuberculosis admitted to Hospital during the week ending Saturday, ..., 191.....

A copy of this return must be sent to the Local Medical Officer of Health each Monday.

Disease	Name	Address	Age	Sex	Date of Admission

Total number of cases of Typhoid and Pulmonary Tuberculosis in Hospital Saturday, ...

PROVINCE OF ALBERTA

Form B

THE HOSPITALS ORDINANCE

Record of all cases admitted to.....Hospital.

Record to be kept by every superintendent or secretary.

Name	Residence	Disease	Age	Sex	Nationality	Occupation	Religion	Name of relatives and friends	Date of Admission	Date of Discharge	No of days in Hospital	Result of treatment

PROVINCE OF ALBERTA

Form C

THE HOSPITALS ORDINANCE

Monthly return of infants dealt with at....., Alberta, month ending....., 191....

A copy of this return must be sent to the Superintendent of Neglected Children, Edmonton, on the last day of the month as required by the Regulations

Mother's Name	Age	Religion	Nationality	Address	Date of Entry	Date of Discharge	Attending Physician	Reputed Father's Name	Nationality	Address	Were Parents Married	Name of Child	Sex	Date of Birth	Disposal

PROVINCE OF ALBERTA

THE HOSPITALS ORDINANCE

ANNUAL RETURN OF MOVEMENT OF PATIENTS.

Returns to be made annually to the Provincial Medical Officer of Health.

Number of beds in hospital.....

Number of patients in hospital, January 1st, 191...,.....

Number of patients admitted.....

Number of infants born in hospital.....

Total number under treatment.....

Number of patients discharged.....

Number of patients died.....

Number of patients remaining in hospital, December 31st, 191...,.....

Total.....

TITLE III.

RELATING TO THE ADMINISTRATION OF JUSTICE.

CHAPTER 21.

An Ordinance respecting the Administration of Civil Justice.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Judicature Ordinance.*" C. O., c. 21, s. 1. Title

INTERPRETATION OF TERMS.

2. In the construction of this Ordinance and the rules of court, unless there is anything in the subject or context repugnant thereto, the several expressions hereinafter mentioned or referred to shall have or include the meanings following: Interpretation

1. "Cause" includes any action, suit, or other original proceeding between a plaintiff and a defendant; Cause
2. "Action" includes suit and means a civil proceeding commenced by writ or in such other manner as may be prescribed by this Ordinance or by rules of court; Action
3. "Matter" includes every proceeding in the court not in a cause; Matter
4. "Originating summons" means a summons by which proceedings are commenced without writ; Originating summons
5. "Plaintiff," "petitioner," "defendant," "party," "person," include bodies politic or corporate holding the relation of plaintiff, defendant or party; Parties
6. "Receiver" includes consignee or manager appointed by or under an order of the court; Receiver
7. "Plaintiff" includes any person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons or otherwise; Plaintiff
8. "Petitioner" includes every person making any application to the court, either by petition, motion, or summons, otherwise than as against any defendant; Petitioner
9. "Defendant" includes every person served with any writ of summons or process, or served with notice of or entitled to attend any proceedings. Defendant
10. "Party" includes every person served with notice of or attending any proceeding, although not named in the record. Party

Person — 11. "Person" includes a body corporate or politic;

Clerk — 12. "Clerk" or "clerk of the court" includes deputy clerk, and, where the context requires it, process issuer;

Sheriff — 13. "Sheriff" includes deputy sheriff, duly appointed bailiffs, coroner and other person discharging the duties of sheriff in the particular case or for the time being;

Pleading — 14. "Pleading" includes any petition or summons (other than a writ of summons) and shall also include the statement in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto and of the reply of the plaintiff to any counterclaim of a defendant;

Judgment — 15. "Judgment" includes decree;

Order — 16. "Order" includes rule;

Affidavit Oath — 17. "Affidavit" or "oath" includes affirmation where authorized by law;

Rule of court — 18. "Rule of court" or "rules of court" shall mean the rules contained in this Ordinance or any rules of court passed in pursuance or under the authority thereof;

Lunatic — 19. "Lunatic" includes an idiot or other person of unsound mind;

Execution creditor — 20. "Execution creditor" includes an assignee of the execution creditor. C. O., c. 21, s. 2.

JURISDICTION.

Jurisdiction

Practice and procedure

3. The jurisdiction of the Supreme Court of the North-West Territories shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of court, and where no special provision is contained in this Ordinance or the said rules it shall be exercised as nearly as may be as in the Supreme Court of Judicature in England as it existed on the first day of January, 1898. C.O., c. 21, s. 3.

4. *Repealed*, 1907, c. 5, s. 1.

Judge in chambers announcement that sitting in court

5. A judge sitting in chambers, if he shall announce that he is sitting in court, shall have, possess, exercise, and enjoy all the powers and authorities, rights, privileges, immunities and incidents of the said court, and any judgment given or decision or determination, or rule, order or decree made by him while sitting as aforesaid in respect of any matter lawfully brought before him, shall be subject to the provisions in this Ordinance relating to appeal to the court *en banc*. C. O., c. 21, s. 5.

Court may make vesting orders

6. In every case in which the court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the court may by order vest such real or personal estate in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the same is so ordered to be vested or in the case of a *chose in action* as if such *chose in action* had been actually assigned to such last mentioned person. C.O., c. 21, s. 6.

7. The Supreme Court presided over by a single judge for the transaction of the business of the court may sit and act at any time and place in each judicial district as any judge usually exercising the jurisdiction of the court within such district appoints. Sittings of court

7*a*. The Lieutenant Governor in Council may by order divide, or otherwise alter the boundaries of any judicial district now or hereafter established and may establish new districts and may by any such order or any other order make such provisions as he may deem necessary to protect the interests affected thereby. C.O., c. 21, s. 7; 1903 (2nd Session), c. 6, s. 2.

RULES OF LAW.

8. In every civil cause or matter commenced in the Supreme Court, law and equity shall be administered by such court according to the following rules:

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose. Equitable estate, right or relief claimed by plaintiff

2. If any defendant claims to be entitled to any equitable estate or right or to relief upon any equitable ground against any deed, instrument or contract or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the said Supreme Court and every judge thereof shall give to every equitable estate, right or ground of relief so claimed and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceeding instituted in that court for the same or like purpose. Equitable estate, right or relief claimed by defendant

3. The said Supreme Court and every judge thereof shall also have power to grant to any defendant, in respect to any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading; and also all such relief relating to or connected with the original subject of the cause or matter and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose and every person served with any such notice shall thenceforth be deemed a party to such cause or matter with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant. Counterclaim and third parties

4. The said court and every judge thereof shall recognize and take notice of all equitable estates, titles and rights and Equitable rights appearing incidentally

all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would have recognized and taken notice of the same in any suit or proceeding duly instituted therein.

Final determination of matters in controversy

5. The Supreme Court in the exercise of its jurisdiction in every cause or matter pending before it shall have power to grant, and shall grant either absolutely or on such reasonable terms and conditions as to it shall seem just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided. C.O., c. 21, s. 8.

Multiplicity of proceedings to be avoided

Jurisdiction as to validity of Provincial Statutes

6. The Supreme Court or any court established exercising within the province the jurisdiction, powers and authority of the Supreme Court shall have jurisdiction to entertain an action at the instance of either the Attorney General for the Dominion or the Attorney General of the province for a declaration as to the validity of any statute or any provision in any statute of the Legislature of this province, though no further relief should be prayed or sought; and the action shall be deemed sufficiently constituted if the two officers aforesaid are parties thereto. A judgment in the action shall be appealable like other judgments of the said court. 1907, c. 5, s. 7.

Jurisdiction of judges of court

7. Every judge of the court shall have jurisdiction throughout the province; and in all causes, matters and proceedings other than those of the court sitting *en banc*, shall have and exercise all the powers, authorities and jurisdiction of the court. 1907, c. 5, s. 7.

Relief against penalties and forfeitures

8. Subject to appeal as in other cases the court shall have power to relieve against all penalties and forfeitures and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the court sees fit. 1907, c. 5, s. 7.

Declaratory judgments and orders

9. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the court may make binding declarations of right whether any consequential relief is or could be claimed or not. 1907, c. 5, s. 7.

Restraining proceedings

10. No cause or proceeding at any time pending in the court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained prior to the passing of *The Judicature Ordinance*, either unconditionally or on any terms, or conditions, may be relied on by way of defence thereto:

Provided always that nothing herein contained shall disable the court from directing a stay of proceeding in any cause or matter pending before it if it shall think fit; and any person whether a party or not to any such cause or matter, who would have been entitled prior to the passing of *The Judicature Ordinance*, to apply to any court to restrain the prosecution thereof, or who may be entitled to enforce by attachment or otherwise

any judgment, decree, rule or order, contrary to which all or any part of the proceeding in such cause or matter may be taken, shall be at liberty to apply to the court by motion in a summary way for a stay of proceeding in such cause or matter either generally or so far as may be necessary for the purposes of justice; and the court shall thereupon make such order as shall be just. 1907, c. 5, s. 7.

Lunatics

Jurisdiction of court

9. In the case of lunatics and their property and estates, the jurisdiction of the court shall, subject to the rules of court, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the Sign Manual. C.O., c. 21, s. 9.

10. The law to be adminsitered in the Territories as to the matters next hereinafter mentioned shall be as follows:

Express trust

1. No claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any Statute of Limitations.

Equitable waste

2. An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Merger

3. There shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Mortgagors of land, rights of action of

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee may sue for such possession, or sue or distrain for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly with such other person.

Assignment of *chose in action*

Conflicting claims

Interpleader

5. In case of an assignment of a debt or other *chose in action*, if the debtor, trustee or other person liable in respect of such debt or *chose in action* shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or *chose in action*, he shall be entitled if he think fit to call upon the several persons making claim thereto to interplead concerning the same.

Stipulations in contracts as to time, etc.

6. Stipulations in contracts as to time or otherwise which would not heretofore have been deemed to be or to have become of the essence of such contracts in a court of equity, shall receive in the Territories the same construction and effect as they would in equity.

Part performance when satisfaction

7. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose though without any new consideration shall be held to extinguish the obligation.

Interlocutory mandamus

8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the court or judge in all cases in which it shall appear to the court or judge to be just or convenient that such order should be made and any such order may be made either unconditionally or upon such terms and conditions as the court or judge shall think just; and if an injunction is asked, either before or at or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass such injunction may be granted, if the court or judge shall think fit whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title and whether the estates claimed by both or by either of the parties are legal or equitable.

Injunction

Receiver

Damages in addition to or instead of injunction or specific performance

9. In all cases in which the court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act or for the specific performance of any covenant, contract or agreement, the court if it thinks fit may award damages to the party injured either in addition to or in substitution for such injunction or specific performance and such damages may be ascertained in such a manner as the court may direct, or the court may grant such other relief as it may deem just.

Orders of court as against purchasers

10. An order of the court under any statutory or other jurisdiction shall not as against a purchaser whether with or without notice be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service.

Rules of equity to prevail

11. Generally in all matters in which there is any conflict or variance between the rules of equity and common law with reference to the same matter the rules of equity shall prevail.

12. *Repealed*, 1910 (2nd Session), c. 3, s. 57.

Minors

13. Minors may sue for wages in the same way as if of full age. C.O., c. 21, s. 10; 1901, c. 10, s. 1.

Assignments of debts and *choses in action*

14. Any absolute assignment made on or after the passing of this subsection by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal *chose in action*, of which express notice in writing shall have been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or *chose in action*, shall be effectual in law, (subject to all equities which would have been entitled to priority over the right of the assignee if this subsection had not been enacted) to pass and transfer the legal right of such debt or *chose in action* from the date of such notice and all legal and other remedies for the same and power to give a good discharge for the same without the concurrence of the assignor. 1907, c. 5, s. 7.

Court may allow interest on debts

15. In addition to the cases in which interest is by law payable, or may by law be allowed, the court may in all cases where in the opinion of the court the payment of a just debt has been improperly withheld, and it seems to the court fair and equitable that the party in default should make compensation by the payment of interest, allow interest for such time and at such rate as the court may think right. 1908, c. 20, s. 1.

CLERK'S DUTIES.

Clerk's duties

11. The duties of the clerk shall be—

Hours of office

1. To attend at his office and keep the same open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays and except on Saturdays and during vacation when the same shall be closed at one o'clock in the afternoon.

Official duties

2. On application of any person by himself or his agent—

(*a*) To receive all complaints and other papers required to be filed in court;

(*b*) To issue all writs of summons, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters;

(*c*) Tax costs, enter judgments and record all judgments and orders pronounced, given and made;

Accounts and books

3. To keep an account of all fines, fees and moneys payable or paid into court entering all such amounts in proper approved books in which shall be entered regularly under separate headings all the proceedings taken in any suit, all moneys received and paid out and the persons to whom and by whom the same have been paid which books shall be accessible at all times to suitors and the public;

Sitting in chambers

4. To attend all sittings of the judge in chambers unless his attendance is dispensed with by the judge; and

Duties generally

5. To do and perform all such other acts and duties as may be necessary for the due administration of civil justice in the Territories. C.O., c. 21, s. 11.

Clerk's duties

6. To do and perform all such other acts and duties as may be, or as may heretofore have been assigned to them or any of them, from time to time, by order in council. 1908, c. 20, s. 1.

Appointment of deputy by clerk or sheriff

11*a*. Each clerk of the court and sheriff may appoint a deputy at the place at which he resides and keeps his office, who (in the absence of such clerk or sheriff) shall have and exercise all the powers of such clerk or sheriff respectively. 1900, c. 5, s. 1.

Absence of clerk

12. In the absence of the clerk the judge may appoint a suitable person to perform the duties prescribed in the preceding section. C.O., c. 21, s. 12.

On vacancy

Appointment of substitute

Disposition of books, documents and moneys

13. All books, papers, documents and moneys in the possession of the clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as the judge usually exercising jurisdiction in the district shall appoint as clerk pending the appointment of a new clerk of the court. C.O., c. 21, s. 13.

PUBLIC ADMINISTRATORS.

Public administrator and official guardian

14. In each judicial district or for such other portion of the Territories as may be deemed desirable the Lieutenant Governor may appoint a fit and proper person being an advocate of not less than five years' standing to be a public administrator and official guardian under the name of public administrator. C.O., c. 21, s. 14.

Trust company approved under chapter 15, 1903 (1st Session) may be appointed public administrator

Provided that the Lieutenant Governor in Council may appoint a trust company which has obtained the approval of the Lieutenant Governor in Council under the provisions of *The Trust Companies Ordinance* to be public administrator under the provisions of this section. 1907, c. 5, s. 7.

Duty as to neglected property of deceased

15. When any person dies whether testate or intestate and his lands, personal estate and effects have not be taken possession of by his executors or next of kin the public administrator in the judicial district where the property or any of the properties situated is hereby empowered and it shall be his duty when the facts are brought to his notice to forthwith take possession of the said lands, personal estate and effects and the same to safely keep, preserve and protect and pending the grant of probate to an executor or the issue of letters of administration as the case may be the public administrator shall have all the powers of an executor or administrator. C.O., c. 21, s. 15.

Issue of letters of administration to public administrator

16. In the absence of any application for probate of a will or for letters of administration within one month after the decease of any person leaving property, letters of administration to the lands, personal estate and effects of the deceased may be granted to the public administrator:

Revocation of

Provided nevertheless that such letters of administration may at any time after the grant thereof be revoked in the discretion of the judge upon the application of any executor applying for probate of will or next of kin of the deceased applying for letters of administration. C.O., c. 21, s. 16.

Security by public administrator

17. Each public administrator shall furnish security to the satisfaction of the Lieutenant Governor in Council in the penal sum of $2,000 conditioned for the due performance of his duties; but shall not otherwise be required to furnish security as administrator unless the judge specially so directs and such security may be furnished by bond or agreement of any guarantee company approved by the Lieutenant Governor in Council.

Proceedings on public administrator's bond

(2) Any person interested may by leave of the Attorney General institute proceedings in his own name on the security to be furnished by public administrators as required hereby, without any assignment thereof, and in case a public administrator is directed by a judge to furnish security otherwise, any person interested may by leave of the court or judge institute proceedings thereon without any assignment thereof. C.O., c. 21, s. 17; 1899, c. 5, s. 1.

May be required to apply for letters of administration

18. After the expiry of one month from the death of any person leaving property any person interested in the estate may by written notice require the public administrator (if he has not already done so) to apply for letters of administration and it shall then be the duty of the said public administrator to make such application; provided the person making such requisition shall make such deposit with the public administrator as a judge may deem sufficient to cover his costs, charges and expenses if the public administrator so desire. C.O., c. 21, s. 18.

Intestacy where estate under $200

18*a*. Whenever a person dies, upon the filing of an affidavit with the clerk or deputy clerk of the judicial district within

which he had his last known place of abode, that as far as can be ascertained he has not left a will or testamentary disposition and that his estate does not exceed in value the sum of two hundred dollars, the public administrator shall at the expiration of sixty days after the decease of such person or within that time if a judge so orders (unless some other person has applied for the grant to him of letters of administration or letters testamentary and such grant has been made) be the administrator of such estate to all intents and purposes as if letters of administration or letters testamentary had formally issued to him and the formal grant of probate or administration to him shall not be necessary.

(2) In any case in which the public administrator shall be the administrator of an estate under this section he shall, without any order for that purpose, advertise for claims once in a newspaper published weekly or semi-weekly at or near the last place of residence of the deceased, and after the expiration of two months from the said advertisement he shall proceed to distribute the estate having regard only to the claims of which he shall have had notice.

(3) The remuneration of a public administrator acting hereunder shall be fixed by the judge at a lump sum and shall, subject to encumbrances on the estate, be a first charge thereon.

(4) After such administration the public administrator shall file in the clerk's office an account thereof verified on oath. 1899, c. 5, s. 2.

Yearly statement of emoluments

19. During the month of January in each year the public administrator shall furnish to the Lieutenant Governor in Council a statement in detail verified on oath of the emoluments of his office for the preceding year ending the 31st day of December. C.O., c. 21, s. 19.

PRACTICE AND PROCEDURE.

Practice and procedure

20. The practice and procedure in the Supreme Court of the Territories shall be regulated by this Ordinance and the rules of court; but the judges of the Supreme Court or a majority of them shall have power to frame and promulgate such additional rules of court not inconsistent with this Ordinance as they may from time to time deem necessary or expedient. C.O., c. 21, s. 20.

Rules of court

21. Subject to the provisions of this Ordinance and the rules of court the practice and procedure existing in the Supreme Court of Judicature in England, shall as nearly as possible be followed in all causes, matters and proceedings. C.O., c. 21, s. 21; am. 1910 (2nd Session), c. 2, s. 3.

Existing rules continued

22. The rules of court already made and promulgated by the judges of the Supreme Court are hereby continued in force until repealed, altered or amended by them. C.O., c. 21, s. 22.

Inspector of legal offices

23. The Lieutenant Governor may from time to time appoint some person being a barrister, solicitor or advocate of at least

three years' standing of one of the provinces of Canada, to be called "The Inspector of Legal Offices," to inspect the offices of the registrars, clerks and deputy clerks of any court of law in the province, the sheriffs and deputy sheriffs, the process issuers, the public administrators, the official assignees, the police magistrates, and justices of the peace, the coroners, the registrars under *The Land Titles Act*, and the agents of the Attorney General, in any of the judicial districts of the province, and such other officers connected with the administration of justice as the Lieutenant Governor in Council may, from time to time, direct. 1908, c. 20, s. 3.

Duties of inspector

24. The following shall be the duties of the inspector:

1. To make a personal inspection of the said offices, and of the books, papers and documents belonging thereto respectively;

2. To see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times, and in a proper form and order, and that the papers and documents are properly classified and preserved;

3. To ascertain that the duties of the officers are duly and efficiently performed;

4. To see that proper costs and charges only are allowed or exacted;

5. To ascertain that the proper security has been given by any officer required by law to give security;

6. To ascertain whether uniformity of practice prevails, or is necessary or desirable, in the several offices heretofore enumerated, or any of them, and to give directions and orders for the introduction and carrying out of such uniformity of practice where he finds the same necessary or desirable;

7. To report upon all matters to the Lieutenant Governor. 1908, c. 20, s. 3.

Inquiries by inspector

25. When the inspector has occasion to institute an inquiry into the conduct of any officer in relation to his official duties or acts, it shall be lawful for the said inspector to require such officer, or any other person or persons, to give evidence on oath; and for this purpose the inspector shall have the same power to summon such officers and other persons, and to compel them to produce books and documents, and to give evidence, as any court has in civil cases. 1908, c. 20, s. 3.

(2) The Attorney General may if he deem proper appoint any other person to institute and conduct an inquiry into the conduct of any of the above mentioned officers, and such person shall have all the powers conferred upon the Inspector of Legal Offices herein in regard to the conduct of such inquiry. 1911-12, c. 4, s. (2).

Books, etc., to be produced for inspection

26. The said several officers shall, as often as required by the inspector, produce for examination and inspection all books, papers and documents which are required to be kept by them, or which may hereafter be required to be kept by them, and shall report to the inspector all such matters relating to any cause or proceeding as the inspector shall require. 1908, c. 20, s. 1 (3).

27. The Lieutenant Governor in Council may from time to time appoint a master or masters in chambers.

(2) Subject to the orders of the Lieutenant Governor in Council the master in chambers shall be an officer of the Supreme Court and attached thereto.

(3) The jurisdiction, powers and authority to be exercised by a master in chambers shall be such as may be assigned to him by rules of court.

(4) Subject to rules of court an appeal shall lie from the decision of a master in chambers to a judge in chambers.

(5) The master in chambers may refer any matter pending before him to a judge for decision and the judge may dispose of or refer back the same in whole or in part. 1913, c. 9, s. 37.

RULES.

The Rules under this Ordinance have been superceded by The Consolidated Rules of the Supreme Court. (Rule 712, C.R., 1914. For Orders in Council and Rules of Court see below).

ORDERS IN COUNCIL.

JUDICIAL DISTRICTS.

Edmonton, Friday, August 28, 1914.

Under the provisions of chapter 6 of the Ordinances of 1903 (2nd Session), amending *The Judicature Ordinance*, His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has been pleased to order—

1st. That the Judicial Districts now existing be altered and Judicial Districts be established within the Province of Alberta, with designation and boundaries as follows:

JUDICIAL DISTRICT OF ATHABASCA.

That portion of the Province of Alberta bounded as follows:

On the east by the east boundary of the said province; on the north by the north boundary of the said province; on the west by the west boundary of the said province; on the south by a line describes as follows: Commencing at the intersection of the north boundary of the forty-fourth townships with the west boundary of the Province of Alberta, thence easterly along said north boundary of the forty-fourth townships to its intersection with the North Saskatchewan River, thence easterly down stream following the North Saskatchewan River to its intersection with the east boundary of the Province of Alberta, excepting thereout and therefrom that portion of the City of Edmonton as it now exists or as it may hereafter from time to time be enlarged or otherwise altered.

JUDICIAL DISTRICT OF EDMONTON.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the fortieth townships with the east boundary of the Province of Alberta, thence northerly along said east boundary of the said province to the North Saskatchewan River, thence westerly up stream along the North Saskatchewan River to its intersection with the east boundary of the City of Edmonton, thence northerly along the said east boundary of the City of Edmonton to the north boundary of the said city, thence westerly along said north boundary of the City of Edmonton to the west boundary of the said city, thence southerly along the west boundary of the City of Edmonton to its intersection with the North Saskatchewan River, thence south-westerly up stream along the North Saskatchewan River to its intersection with the north boundary of the fiftieth townships, thence easterly along the said north boundary of the fiftieth townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence southerly along said line between

ranges nineteen (19) and twenty (20) west of the fourth meridian, to the north boundary of the forty-eighth townships, thence easterly along said north boundary of the forty-eighth townships to the line between ranges fifteen (15) and sixteen (16) west of the fourth meridian, thence southerly along said line between ranges fifteen (15) and sixteen (16) west of the fourth meridian to the north boundary of the forty-sixth townships, thence easterly along said north boundary of the forty-sixth townships to the line between ranges twelve (12) and thirteen (13) west of the fourth meridian, thence southerly along said line between ranges twelve (12) and thirteen (13) west of the fourth meridian to the north boundary of the forty-fifth townships, thence easterly along said north boundary of the forty-fifth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the forty-fourth townships, thence easterly along said north boundary of the forty-fourth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence southerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the forty-second townships, thence easterly along said north boundary of the forty-second townships to the line between ranges five (5) and six (6) west of the fourth meridian, thence southerly along said line between ranges five (5) and six (6) west of the fourth meridian to the north boundary of the fortieth townships, thence easterly along said north boundary of the fortieth townships to the point of commencement.

Judicial District of Wetaskiwin.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirty-sixth townships with the east boundary of the Province of Alberta, thence northerly along the said east boundary of the said province to the north boundary of the fortieth townships, thence westerly along said north boundary of the fortieth townships to the line between ranges five (5) and six (6) west of the fourth meridian, thence northerly along said line between ranges five (5) and six (6) west of the fourth meridian to the north boundary of the forty-second townships, thence westerly along said north boundary of the forty-second townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence northerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the forty-fourth townships, thence westerly along said north boundary of the forty-fourth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the forty-fifth townships, thence westerly along said north boundary of the forty-fifth townships to the line between ranges twelve (12) and thirteen (13) west of the fourth meridian, thence northerly along said line between ranges twelve (12) and thirteen (13) west of the fourth meridian to the north boundary of the forty-sixth townships, thence westerly along said north boundary of the forty-sixth townships to the line between ranges fifteen (15) and sixteen (16) west of the fourth meridian, thence northerly along said line between ranges fifteen (15) and sixteen (16) west of the fourth meridian to the north boundary of the forty-eighth townships, thence westerly along said north boundary to the forty-eighth townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence northerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of the fiftieth townships, thence westerly along said north boundary of the fiftieth townships to the North Saskatchewan River, thence westerly up stream along the North Saskatchewan River to its intersection with the north boundary of the forty-first townships, thence easterly along said north boundary of the forty-first townships to its intersection with the Battle River, thence easterly down stream along the Battle River to its intersection with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-eighth townships, thence easterly along the said north boundary of the thirty-eighth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence southerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the thirty-sixth townships, thence easterly along said north boundary of the thirty-sixth townships to the point of commencement.

JUDICIAL DISTRICT OF RED DEER.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirty-fourth townships with the west boundary of the Province of Alberta, thence easterly along the said north boundary of the thirty-fourth townships to its intersection with the Red Deer River, thence northerly up stream along the Red Deer River to the mouth of Tail Creek, thence northerly up stream along Tail Creek to Buffalo Lake, thence north-easterly along the eastern shore of Buffalo Lake to its intersection with the north boundary of section thirteen (13), township forty-one (41), range twenty (20), west of the fourth meridian, thence easterly along the north boundary of the said section thirteen (13) to the line between Ranges nineteen (19) and twenty (20) west of the fourth meridian, thence northerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of the forty-first townships, thence westerly along the said north boundary of the forty-first townships to its intersection with the North Saskatchewan River, thence northerly down stream following the North Saskatchewan River to its intersection with the north boundary of the forty-fourth townships, thence westerly along the north boundary of the forty-fourth townships to the west boundary of the Province of Alberta, thence south-easterly along the west boundary of the Province of Alberta to the point of commencement.

JUDICIAL DISTRICT OF STETTLER.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirtieth townships with the east boundary of the Province of Alberta, thence northerly along the said east boundary of the said province to the north boundary of the thirty-sixth townships, thence westerly along the said north boundary of the thirty-sixth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence northerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the thirty-eighth townships, thence westerly along the north boundary of the thirty-eighth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the Battle River, thence westerly up stream along the Battle River to its intersection with the north boundary of the forty-first townships, thence westerly along the north boundary of the forty-first townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence southerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of section thirteen (13), township forty-one (41), range twenty (20), west of the fourth meridian, thence westerly along said north boundary of section thirteen (13) to the east shore of Buffalo Lake, thence south-westerly along the east shore of Buffalo Lake to the mouth of Tail Creek, thence southerly along Tail Creek to the Red Deer River, thence southerly down stream along Red Deer River to its intersection with the north boundary of the thirty-third townships, thence easterly along said north boundary of the thirty-third townships to the line between ranges thirteen (13) and fourteen (14) west of the fourth meridian, thence southerly along said line between ranges thirteen (13) and fourteen (14) west of the fourth meridian to the north boundary of the thirty-second townships, thence easterly along the said north boundary of the thirty-second townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-first townships, thence easterly along said north boundary of the thirty-first townships to the line between ranges six (6) and seven (7) west of the fourth meridian, thence southerly along said line between ranges six (6) and seven (7) west of the fourth meridian to the north boundary of the thirtieth townships, thence easterly along said north boundary of the thirtieth townships to the point of commencement.

JUDICIAL DISTRICT OF CALGARY.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the sixteenth townships with the west boundary of the Province of Alberta, thence easterly along the said north boundary of the sixteenth townships to the Bow River,

thence south-easterly down stream of the Bow River to the north boundary of townships thirteen (13), thence easterly along the said north boundary of townships thirteen (13) to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence northerly along the said line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River, thence easterly down stream along the Red Deer River to the east boundary of the Province of Alberta, thence northerly along the east boundary of the Province of Alberta to the north boundary of the thirtieth townships, thence westerly along the north boundary of the thirtieth townships to the line between ranges six (6) and seven (7) west of the fourth meridian, thence northerly along said line between ranges six (6) and seven (7) west of the fourth meridian to the north boundary of the thirth-first townships, thence westerly along the north boundary of the thirty-first townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along the line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-second townships, thence westerly along the said north boundary of the thirty-second townships to the line between ranges thirteen (13) and fourteen (14) west of the fourth meridian, thence northerly along said line between ranges thirteen (13) and fourteen (14) west of the fourth meridian to the north boundary of the thirty-third townships, thence westerly along the north boundary of the thirty-third townships to its intersection with the Red Deer River, thence north-easterly up stream along the Red Deer River to its intersection with the north boundary of the thirty-fourth townships, thence westerly along the north boundary of the thirty-fourth townships to its intersection with the west boundary of the Province of Alberta, thence south-easterly along the west boundary of the Province of Alberta to the point of commencement.

Bassano, Sub-Judicial District of Calgary.

That portion of the Judicial District of Calgary described as follows shall be known as the Bassano Sub-Judicial District of the Judicial District of Calgary:

Commencing at the intersection of the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian with the north boundary of the sixteenth townships, thence easterly along the said north boundary of the sixteenth townships to the Bow River, thence south-easterly down stream along the Bow River to its most easterly intersection with the north boundary of the thirteenth townships, thence easterly along the north boundary of the thirteenth townships to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence north along the line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River, thence easterly down stream along the Red Deer River to its intersection with the line between ranges nine (9) and ten (10) west of the fourth meridian, thence north along the said line between ranges nine (9) and ten (10) west of the fourth meridian to the north boundary of the twenty-sixth townships, thence westerly along the north boundary of the twenty-sixth townships to the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian, thence southerly along the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian to the point of commencement.

All writs of *fieri facias* affecting goods and lands situate in that part of the Judicial District of Calgary, more particularly described as the Sub-Judicial District of Bassano, shall be directed to and filed with the Deputy Sheriff of the said Sub-Judicial District at Bassano.

Judicial District of Medicine Hat.

That portion of the Province of Alberta bounded as follows:

On the east by the eastern boundary of the Province of Alberta; on the south by the southern boundary of the said province; on the north by the Red Deer River; and on the west by a line described as follows: Commencing at the intersection of the southern boundary of the Province of Alberta with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence north following the said line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence west up stream following the said South Saskatchewan River to its intersection with the northern boundary of the thirteenth townships, thence east along the said northern boundary of the said thirteenth town-

ships to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence north along said line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River.

Judicial District of Macleod.

That portion of the Province of Alberta bounded as follows:

On the north by the northern boundary of the sixteenth townships; on the west by the western boundary of the Province of Alberta; on the south by the southern boundary of the Province of Alberta; and on the east by a line described as follows: Commencing at the intersection of the northern boundary of the sixteenth townships with the line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian, thence southerly along the said line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian to the northern boundary of the twelfth townships, thence easterly along the northern boundary of the twelfth townships to the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian, thence southerly along the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian to its intersection with the Belly River, thence easterly down stream along the Belly River to the mouth of the St. Mary River, thence southerly up stream along the St. Mary River and Lees Creek to the intersection of the said Lees Creek with the southerly limit of the Blood Indian Reserve, thence westerly along the said southerly limit of the Blood Indian Reserve to the line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian; thence southerly along the said line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian to the southern boundary of the Province of Alberta.

Judicial District of Lethbridge.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the southern boundary of the Province of Alberta with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence north along the said line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence west up stream along the said South Saskatchewan River and the Bow River to the intersection of the Bow River with the north boundary of the sixteenth townships, thence west along the north boundary of the sixteenth townships to the line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian, thence southerly along the said line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian to the northern boundary of the twelfth townships, thence east along the northern boundary of the twelfth townships to the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian, thence southerly along the line between ranges twenty-three (23) and twenty four (24) to its intersection with the Belly River, thence easterly down stream along the Belly River to the mouth of the St. Mary River, thence southerly up stream along the St. Mary River and Lees Creek to the intersection of the said Lees Creek with the southerly limit of the Blood Indian Reserve, thence westerly along the said southerly limit of the Blood Indian Reserve to the line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian, thence southerly along the said line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian to the south boundary of the Province of Alberta, thence easterly along the south boundary of the Province of Alberta to the point of commencement.

Taber, Sub-Judicial District of Lethbridge.

That portion of the Judicial District of Lethbridge described as follows shall be known as the Taber Sub-Judicial District of the Judicial District of Lethbridge:

Commencing at north-east corner of township seven (7), range eleven (11) west of the fourth meridian, thence north on the line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence westerly up stream along the said South Saskatchewan River and the Bow River to the intersection of the said Bow River with the northerly boundary of the sixteenth townships, thence westerly along the north boundary of the sixteenth townships to the line between ranges twenty (20) and twenty-one (21) west of the fourth meridian, thence southerly along the line between ranges twenty (20) and twenty-one (21) west of the fourth

meridian to the north boundary of townships eleven (11), thence easterly along the north boundary of townships eleven (11) to the line between ranges eighteen (18) and nineteen (19) west of the fourth meridian, thence southerly on the line between ranges eighteen (18) and nineteen (19) west of the fourth meridian, to the north boundary of townships seven (7), thence easterly along the said north boundary of townships seven (7) to the point of commencement.

All writs of *fieri facias* affecting goods and lands situate in that part of the Judicial District of Lethbridge, more particularly described as the Sub-Judicial District of Taber, shall be directed to and filed with the Deputy Sheriff of the said Sub-Judicial District of Taber.

2nd. That all writs, processes, actions and other proceedings in force or pending in the Judicial Districts on the date of the establishment of the new Judicial Districts herein described shall have effect and continue according to their tenor in the new Judicial Districts respectively within whose limit suit was first entered or proceedings begun;

3rd. That until otherwise ordered the officers of the Judicial District of Calgary shall be Acting Officers of the Sub-Judicial District of Calgary, known as Bassano, and that the officers of the Judicial District of Lethbridge shall be acting officers of the Sub-Judicial District of Lethbridge, known as Taber; and that, until otherwise ordered the officers of the Judicial District of Edmonton shall be the acting officers of the Judicial District of Athabasca; and that all officers of other judicial districts shall continue to be the officers of the new judicial districts within their boundaries respectively;

4th. That the foregoing shall come into operation on the 1st day of September, 1914, and that a notice of the same be published in *The Alberta Gazette* prior to the said date, and that the Government Printer be and he is hereby instructed to forward without charge a copy of the said issue of the *Gazette* to every advocate in the Province of Alberta whose address he can ascertain.

CLERK OF EXECUTIVE COUNCIL.

REGISTRATION DISTRICTS.

Edmonton, Friday, August 28, 1914.

Under the provisions of chapter 12 of the Ordinances of the North-West Territories, 1900, His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has been pleased to order that on or after the 1st day of September, 1914, registration districts be established within the Province of Alberta, with boundaries as follows:

REGISTRATION DISTRICT OF ATHABASCA.

That portion of the Province of Alberta bounded as follows:

On the east by the east boundary of the said province; on the north by the north boundary of the said province; on the west by the west boundary of the said province; on the south by a line describes as follows: Commencing at the intersection of the north boundary of the forty-fourth townships with the west boundary of the Province of Alberta, thence easterly along said north boundary of the forty-fourth townships to its intersection with the North Saskatchewan River, thence easterly down stream following the North Saskatchewan River to its intersection with the east boundary of the Province of Alberta, excepting thereout and therefrom that portion of the City of Edmonton as it now exists or as it may hereafter from time to time be enlarged or otherwise altered.

REGISTRATION DISTRICT OF EDMONTON.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the fortieth townships with the east boundary of the Province of Alberta, thence northerly along said east boundary of the said province to the North Saskatchewan River, thence westerly up stream along the North Saskatchewan River to its intersection with the east boundary of the City of Edmonton, thence northerly along the said east boundary of the City of Edmonton to the north boundary of the said city, thence westerly along said north boundary of the City of Edmonton to the west boundary of the said city, thence southerly along the west boundary of the City of Edmonton to its intersection with the North Saskatchewan River, thence south-westerly up stream along

the North Saskatchewan River to its intersection with the north boundary of the fiftieth townships, thence easterly along the said north boundary of the fiftieth townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence southerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian, to the north boundary of the forty-eighth townships, thence easterly along said north boundary of the forty-eighth townships to the line between ranges fifteen (15) and sixteen (16) west of the fourth meridian, thence southerly along said line between ranges fifteen (15) and sixteen (16) west of the fourth meridian to the north boundary of the forty-sixth townships, thence easterly along said north boundary of the forty-sixth townships to the line between ranges twelve (12) and thirteen (13) west of the fourth meridian, thence southerly along said line between ranges twelve (12) and thirteen (13) west of the fourth meridian to the north boundary of the forty-fifth townships, thence easterly along said north boundary of the forty-fifth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the forty-fourth townships, thence easterly along said north boundary of the forty-fourth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence southerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the forty-second townships, thence easterly along said north boundary of the forty-second townships to the line between ranges five (5) and six (6) west of the fourth meridian, thence southerly along said line between ranges five (5) and six (6) west of the fourth meridian to the north boundary of the fortieth townships, thence easterly along said north boundary of the fortieth townships to the point of commencement.

Registration District of Wetaskiwin.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirty-sixth townships with the east boundary of the Province of Alberta, thence northerly along the said east boundary of the said province to the north boundary of the fortieth townships, thence westerly along said north boundary of the fortieth townships to the line between ranges five (5) and six (6) west of the fourth meridian, thence northerly along said line between ranges five (5) and six (6) west of the fourth meridian to the north boundary of the forty-second townships, thence westerly along said north boundary of the forty-second townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence northerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the forty-fourth townships, thence westerly along said north boundary of the forty-fourth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the forty-fifth townships, thence westerly along said north boundary of the forty-fifth townships to the line between ranges twelve (12) and thirteen (13) west of the fourth meridian, thence northerly along said line between ranges twelve (12) and thirteen (13) west of the fourth meridian to the north boundary of the forty-sixth townships, thence westerly along said north boundary of the forty-sixth townships to the line between ranges fifteen (15) and sixteen (16) west of the fourth meridian, thence northerly along said line between ranges fifteen (15) and sixteen (16) west of the fourth meridian to the north boundary of the forty-eighth townships, thence westerly along said north boundary to the forty-eighth townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence northerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of the fiftieth townships, thence westerly along said north boundary of the fiftieth townships to the North Saskatchewan River, thence westerly up stream along the North Saskatchewan River to its intersection with the north boundary of the forty-first townships, thence easterly along said north boundary of the forty-first townships to its intersection with the Battle River, thence easterly down stream along the Battle River to its intersection with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-eighth townships, thence easterly along the said north boundary of the thirty-eighth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence southerly along

said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the thirty-sixth townships, thence easterly along said north boundary of the thirty-sixth townships to the point of commencement.

Registration District of Red Deer.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirty-fourth townships with the west boundary of the Province of Alberta, thence easterly along the said north boundary of the thirty-fourth townships to its intersection with the Red Deer River, thence northerly up stream along the Red Deer River to the mouth of Tail Creek, thence northerly up stream along Tail Creek to Buffalo Lake, thence north-easterly along the eastern shore of Buffalo Lake to its intersection with the north boundary of section thirteen (13), township forty-one (41), range twenty (20), west of the fourth meridian, thence easterly along the north boundary of the said section thirteen (13) to the line between Ranges nineteen (19) and twenty (20) west of the fourth meridian, thence northerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of the forty-first townships, thence westerly along the said north boundary of the forty-first townships to its intersection with the North Saskatchewan River, thence northerly down stream following the North Saskatchewan River to its intersection with the north boundary of the forty-fourth townships, thence westerly along the north boundary of the forty-fourth townships to the west boundary of the Province of Alberta, thence south-easterly along the west boundary of the Province of Alberta to the point of commencement.

Registration District of Stettler.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the thirtieth townships with the east boundary of the Province of Alberta, thence northerly along the said east boundary of the said province to the north boundary of the thirty-sixth townships, thence westerly along the said north boundary of the thirty-sixth townships to the line between ranges seven (7) and eight (8) west of the fourth meridian, thence northerly along said line between ranges seven (7) and eight (8) west of the fourth meridian to the north boundary of the thirty-eighth townships, thence westerly along the north boundary of the thirty-eighth townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the Battle River, thence westerly up stream along the Battle River to its intersection with the north boundary of the forty-first townships, thence westerly along the north boundary of the forty-first townships to the line between ranges nineteen (19) and twenty (20) west of the fourth meridian, thence southerly along said line between ranges nineteen (19) and twenty (20) west of the fourth meridian to the north boundary of section thirteen (13), township forty-one (41), range twenty (20), west of the fourth meridian, thence westerly along said north boundary of section thirteen (13) to the east shore of Buffalo Lake, thence south-westerly along the east shore of Buffalo Lake to the mouth of Tail Creek, thence southerly along Tail Creek to the Red Deer River, thence southerly down stream along Red Deer River to its intersection with the north boundary of the thirty-third townships, thence easterly along said north boundary of the thirty-third townships to the line between ranges thirteen (13) and fourteen (14) west of the fourth meridian, thence southerly along said line between ranges thirteen (13) and fourteen (14) west of the fourth meridian to the north boundary of the thirty-second townships, thence easterly along the said north boundary of the thirty-second townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence southerly along said line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-first townships, thence easterly along said north boundary of the thirty-first townships to the line between ranges six (6) and seven (7) west of the fourth meridian, thence southerly along said line between ranges six (6) and seven (7) west of the fourth meridian to the north boundary of the thirtieth townships, thence easterly along said north boundary of the thirtieth townships to the point of commencement.

Registration District of Calgary.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the north boundary of the sixteenth townships with the west boundary of the Province of Alberta, thence easterly along the said north boundary of the sixteenth townships to the Bow River, thence south-easterly down stream of the Bow River to the north boundary of townships thirteen (13), thence easterly along the said north boundary of townships thirteen (13) to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence northerly along the said line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River, thence easterly down stream along the Red Deer River to the east boundary of the Province of Alberta, thence northerly along the east boundary of the Province of Alberta to the north boundary of the thirtieth townships, thence westerly along the north boundary of the thirtieth townships to the line between ranges six (6) and seven (7) west of the fourth meridian, thence northerly along said line between ranges six (6) and seven (7) west of the fourth meridian to the north boundary of the thirty-first townships, thence westerly along the north boundary of the thirty-first townships to the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence northerly along the line between ranges ten (10) and eleven (11) west of the fourth meridian to the north boundary of the thirty-second townships, thence westerly along the said north boundary of the thirty-second townships to the line between ranges thirteen (13) and fourteen (14) west of the fourth meridian, thence northerly along said line between ranges thirteen (13) and fourteen (14) west of the fourth meridian to the north boundary of the thirty-third townships, thence westerly along the north boundary of the thirty-third townships to its intersection with the Red Deer River thence north-easterly up stream along the Red Deer River to its intersection with the north boundary of the thirty-fourth townships, thence westerly along the north boundary of the thirty-fourth townships to its intersection with the west boundary of the Province of Alberta, thence south-easterly along the west boundary of the Province of Alberta to the point of commencement.

Registration District of Bassano.

That portion of the Province of Alberta described as follows:

Commencing at the intersection of the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian with the north boundary of the sixteenth townships, thence easterly along the said north boundary of the sixteenth townships to the Bow River, thence south-easterly down stream along the Bow River to its most easterly intersection with the north boundary of the thirteenth townships, thence easterly along the north boundary of the thirteenth townships to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence north along the line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River, thence easterly down stream along the Red Deer River to its intersection with the line between ranges nine (9) and ten (10) west of the fourth meridian, thence north along the said line between ranges nine (9) and ten (10) west of the fourth meridian to the north boundary of the twenty-sixth townships, thence westerly along the north boundary of the twenty-sixth townships to the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian, thence southerly along the line between ranges twenty-one (21) and twenty-two (22) west of the fourth meridian to the point of commencement.

Registration District of Medicine Hat.

That portion of the Province of Alberta bounded as follows:

On the east by the eastern boundary of the Province of Alberta; on the south by the southern boundary of the said province; on the north by the Red Deer River; and on the west by a line described as follows: Commencing at the intersection of the southern boundary of the Province of Alberta with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence north following the said line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence west up stream following the said South Saskatchewan River to its intersection with the northern boundary of the thirteenth townships, thence east along the said northern boundary of the said thirteenth town-

ships to the line between ranges eleven (11) and twelve (12) west of the fourth meridian, thence north along said line between ranges eleven (11) and twelve (12) west of the fourth meridian to the Red Deer River.

Registration District of Macleod.

That portion of the Province of Alberta bounded as follows:

On the north by the northern boundary of the sixteenth townships; on the west by the western boundary of the Province of Alberta; on the south by the southern boundary of the Province of Alberta; and on the east by a line described as follows: Commencing at the intersection of the northern boundary of the sixteenth townships with the line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian, thence southerly along the said line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian to the northern boundary of the twelfth townships, thence easterly along the northern boundary of the twelfth townships to the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian, thence southerly along the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian to its intersection with the Belly River, thence easterly down stream along the Belly River to the mouth of the St. Mary River, thence southerly up stream along the St. Mary River and Lees Creek to the intersection of the said Lees Creek with the southerly limit of the Blood Indian Reserve, thence westerly along the said southerly limit of the Blood Indian Reserve to the line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian; thence southerly along the said line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian to the southern boundary of the Province of Alberta.

Registration District of Lethbridge.

That portion of the Province of Alberta which may be more particularly described as follows:

Commencing at the intersection of the southern boundary of the Province of Alberta with the line between ranges ten (10) and eleven (11) west of the fourth meridian, thence north along the said line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence west up stream along the said South Saskatchewan River and the Bow River to the intersection of the Bow River with the north boundary of the sixteenth townships, thence west along the north boundary of the sixteenth townships to the line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian, thence southerly along the said line between ranges twenty-four (24) and twenty-five (25) west of the fourth meridian to the northern boundary of the twelfth townships, thence east along the northern boundary of the twelfth townships to the line between ranges twenty-three (23) and twenty-four (24) west of the fourth meridian, thence southerly along the line between ranges twenty-three (23) and twenty-four (24) to its intersection with the Belly River, thence easterly down stream along the Belly River to the mouth of the St. Mary River, thence southerly up stream along the St. Mary River and Lees Creek to the intersection of the said Lees Creek with the southerly limit of the Blood Indian Reserve, thence westerly along the said southerly limit of the Blood Indian Reserve to the line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian, thence southerly along the said line between ranges twenty-seven (27) and twenty-eight (28) west of the fourth meridian to the south boundary of the Province of Alberta, thence easterly along the south boundary of the Province of Alberta to the point of commencement.

Registration District of Taber.

That portion of the Province of Alberta bounded as follows:

Commencing at north-east corner of township seven (7), range eleven (11) west of the fourth meridian, thence north on the line between ranges ten (10) and eleven (11) west of the fourth meridian to the South Saskatchewan River, thence westerly up stream along the said South Saskatchewan River and the Bow River to the intersection of the said Bow River with the northerly boundary of the sixteenth townships, thence westerly along the north boundary of the sixteenth townships to the line between ranges twenty (20) and twenty-one (21) west of the fourth meridian, thence southerly along the line between ranges twenty (20) and twenty-one (21) west of the fourth meridian to the north boundary of townships eleven (11), thence easterly

along the north boundary of townships eleven (11) to the line between ranges eighteen (18) and nineteen (19) west of the fourth meridian, thence southerly on the line between ranges eighteen (18) and nineteen (19) west of the fourth meridian, to the north boundary of townships seven (7), thence easterly along the said north boundary of townships seven (7) to the point of commencement.

His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has also been pleased to order that until otherwise ordered the clerks or acting clerks of the Supreme Court of each Judicial District respectively shall act as the registration clerks for every Registration District respectively situate within its boundaries.

CLERK OF EXECUTIVE COUNCIL.

MASTERS IN CHAMBERS.

DISTRICT COURT MATTERS.

NOTE.—In all actions brought or proposed to be brought in a District Court a master in chambers shall have power and do all such things, transact all such business, and exercise all such authority and jurisdiction in respect to the same as may be done, transacted, or exercised by a judge of a District Court sitting in chambers. *See District Courts Act*, 1907, Sec. 24 (a).

SUPREME COURT.

Upon the recommendation of the Honourable the Attorney General, dated March 26th, 1913, the Executive Council advises that, pursuant to section 24 of *The Supreme Court Act*, the following rules be passed and promulgated as Rules of Court:

1. A master in chambers, in regard to all actions brought, or proposed to be brought, in the Supreme Court, shall be, and hereby is, empowered and required to do all such things, transact all such business and exercise all such authority and jurisdiction in respect to the same as may be now done, transacted or exercised under and by virtue of sections 42, 43 and 44 of *The District Courts Act*, and amendments from time to time thereto, by any judge of the District Court when acting as a local judge of the Supreme Court;

2. Any persons affected by a decision, judgment or order of the master in chambers may appeal therefrom to a judge of the Supreme Court;

3. The appeal shall be by motion on notice served within four days and returnable within ten days after the decision complained of, or within such further time as may be allowed by a judge of the Supreme Court, or by the master in chambers;

4. The appeal shall not be a stay of proceedings unless so ordered by a judge of the Supreme Court or by the master in chambers;

5. When the judgment, order or decision is made or given in vacation, or within six days next preceding vacation, a person affected thereby may appeal therefrom during vacation by leave of a judge, or may appeal after vacation in the same manner, and within the same time as if the judgment, order or decision had been made on the first day after such vacation.

Wednesday, March 26, 1913.

OFFICE HOURS.

The Executive Council has had under consideration the report of the Honourable the Attorney General, dated June 18th, 1914, stating that, subject to the orders of the Lieutenant Governor in Council, every master in chambers is, by section 27 of *The Judicature Ordinance*, an officer of the Supreme Court and attached thereto.

Therefore, upon the recommendation of the Honourable the Attorney General, the Executive Council advises that masters in chambers shall attend daily at their offices in the court house at the Cities of Edmonton and Calgary respectively and shall keep the said offices open daily between the hours of ten o'clock in the forenoon and four o'clock in the afternoon on all days except Sundays and holidays, and except Saturdays and during vacation when the same shall be closed at one o'clock in the afternoon.

Tuesday, June 23, 1914.

ALBERTA RULES OF COURT, 1914.

Edmonton, Monday August 12, 1914.

Under the provisions of section 24 of *The Supreme Court Act* of 1907, and section 24 of *The District Courts Act* of 1907, His Honour the Lieutenant Governor, by and with the advice of the Executive Council, has been pleased to order that the Alberta Rules of Court, 1914, be authorized and promulgated as the Rules of Court giving the practice and procedure in the said courts, and that they take effect on the First day of September, 1914.

CLERK OF EXECUTIVE COUNCIL.

(*See Alberta Gazette, Vol. 10, No. 16, page 4.*)

(The references at the end of the Rules are to the English Annual Practice, 1913, and to the Ontario Rules, 1897.)

DEFINITIONS AND INTRODUCTORY MATTER.

Citation of rules

1. The following Rules may be cited as "The Consolidated Rules of the Supreme Court" or briefly "C. R." They shall come into operation on the first day of September, 1914, and shall apply so far as may be practicable, unless others are specially provided, to all proceedings taken on or after that day in all actions and other proceedings then pending.

Rules not to affect criminal matters

2. These Rules are not intended to affect the practice or procedure in criminal matters.

Statutes to apply

(2) *The Interpretation Act, The Supreme Court Act,* and *The District Courts Act* shall apply to these Rules.

Matters not provided for to be regulated by analogy

3. As to all matters not provided for in these Rules the practice as far as may be shall be regulated by analogy thereto. [O. 3.]

Headings and notes not to affect construction

4. The division of these Rules into headings and the addition of marginal notes is for convenience only and is not intended to affect their construction. [O. 7.]

Date of coming into operation of future rules

5. Every Rule hereafter made shall be construed as intended to come into force on the fifteenth day after the date of *The Alberta Gazette* in which it shall first be published unless the Rule shall otherwise direct. [O. 8.]

Definitions

6. In the construction of these Rules, unless there is anything in the subject or context repugnant thereto or inconsistent therewith, the several words hereinafter mentioned shall have or include the meanings following; that is to say—

(*a*) "Rules" shall include forms;

(*b*) "Clerk" means the clerk, deputy clerk or acting clerk of the judicial district in which the action or other proceeding is pending or is about to be commenced and, where the context requires it, a process issuer;

(*c*) "Address for service" means an office or other place of business, not being more than three miles from the office of the clerk of the district in which the action or other proceeding in which the address for service is required to be given was commenced;

(*d*) "Action" shall include any issue directed to be tried;

(*e*) "A liquidated demand" means a claim for a specific sum payable under an express or implied contract for the payment of a sum of money not being in the nature of a penalty or unliquidated damages, the amount whereof is fixed by the terms of the contract or can be ascertained by calculation only or upon the taking of an account between the plaintiff and the defendant; or a claim for a specific sum of money, whether or not in the nature of a penalty or damages recoverable under a statute which contains an express provision that the sum sued for may be recovered as a liquidated demand or as liquidated damages;

(*f*) A "statement of claim" is the pleading by which the plantiff commences his action;

(*g*) A "statement of defence" is the pleading by which the defendant answers the plaintiff's statement of claim;

(*h*) A "counterclaim" is the pleading by which the defendant makes against the plaintiff or against the plaintiff and others such a claim as he might have made by a statement of claim in an independent action. If there be a statement of defence, the counterclaim shall be conjoined and pleaded with the statement of defence;

(*i*) A "reply" is the statement by which the plaintiff answers the defendant's statement of defence;

(*j*) A "defence to counterclaim" is the pleading by which the plaintiff answers the defendant's counterclaim. If there be a reply to the statement of defence, the defence to the counterclaim shall be conjoined and pleaded with the reply to the statement of defence;

(*k*) A "reply to the defence to counterclaim" is the pleading by which the defendant answers the plaintiff's defence to the counterclaim;

(*l*) A "joinder of issue" is a pleading by which a party joins issue upon the previous pleading of an opposite party without more.

No pleadings subsequent to joinder of issue without leave

7. No pleading other than a joinder of issue subsequent to reply or reply to defence to counterclaim may be pleaded except by leave of a judge. [E. 277; O. 257.]

Judge in chambers may dispose of matters other than trials

8. Except as otherwise provided all motions, applications and hearings other than the trials of actions may be disposed of by a judge in chambers. [480.]

Variation or discharge of orders

9. Any order made *ex parte* may be varied or discharged by any judge on notice and every order made by a judge may be varied or discharged upon notice by the same judge. [E. J. A. 50.]

Procedure on death or cesser of office by judge

10. Where any application ought to be made to or any jurisdiction exercised by the judge by whom a cause or matter has been tried or before whom any motion has been made, if such judge shall die or cease to be a judge of the court or if for any other reason it shall be impossible or inconvenient that such judge should act in the matter, any other judge may hear such application or otherwise exercise such jurisdiction. [514; E. 885.]

JOINDER OF CAUSES OF ACTION AND PARTIES.

All causes of action may be joined

11. Subject to the following Rules relating to the joinder of causes of action, the plaintiff may unite in the same action several causes of action. [79 pt.; E. 188; O. 232; M. 257.]

Claims by assignee for creditors

12. Claims by an assignee for the benefit of creditors as such shall not, unless by leave of a judge, be joined with any claim by him in any other capacity. [E. 190; O. 233; M. 259.]

By or against husband and wife

13. Claims by or against husband and wife may be joined with claims by or against either of them separately. [E. 191; O. 234; M. 260.]

Personal representative

14. Claims by or against an executor or administrator as such may be joined with claims by or against him personally; provided the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator. [E. 192; O. 235; M. 261.]

Joinder of claims arising from same or similar transactions

15. Claims by one or more plaintiffs against one or more defendants in respect of or arising out of the same transaction or occurrence or out of the same series of transactions or occurrences may be joined in the same action whether the plaintiff's claim to be entitled to relief jointly or separately, or in the alternative, and whether the defendants are sought to be charged jointly or separately or in the alternative, and whether or not the relief or remedy sought against the several defendants be the same. [E. 188.]

Remedy for misjoinder

16. If it be made to appear to a judge that several causes of action joined in the same action have been improperly joined or cannot all be conveniently disposed of in one action, the judge may either order any of such causes of action to be excluded or may direct the issues raised by any of the causes of action to be tried separately and in either case may direct the pleadings to be amended accordingly and may make such order as to costs as may be just. [79 pt.; E. 188, 195, 196; O. 237; M. 263.]

JOINDER OF PLAINTIFFS.

Wrong plaintiff

17. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has

been commenced in the name of the right plaintiff, a judge may, if satisfied that it has been so commenced through a *bona fide* mistake, either of fact or law, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as may be just. [27; E. 124; O. 313.]

Misjoinder of plaintiff Counterclaim

18. Where in an action any person has been improperly or unnecessarily joined as a co-plaintiff, and a defendant has set up a counterclaim, he may obtain the benefit thereof by establishing his counterclaim against the parties other than the co-plaintiff so joined notwithstanding the misjoinder of such plaintiff or any proceedings consequent thereon. [28; E. 125.]

Waste

19. In any action for prevention of waste or otherwise for the protection of property, one person may sue on behalf of himself and all other persons having the same or a similar interest. [49; E. 159; O. 203 (e); M. 238 (e).]

Representative plaintiff or defendant

20. Where numerous persons have a common interest in the subject of an intended action, one or more of such persons may sue or be sued or may be authorized by a judge to defend in such action on behalf of or for the benefit of all persons interested; and one or more of such persons may by order of a judge be substituted for the person or persons previously acting. [34; E. 131; O. 200; M. 233.]

Trustees and personal representatives

21. Trustees, executors or administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees, or representatives without joining any of the persons beneficially interested in the trust or estate, and shall be considered as representing such persons; but a judge may, at any stage of the proceedings, order any of such persons to be made parties either in addition to or in lieu of the previously existing parties. [33 (1); E. 130; O. 193; M. 227.]

22. Anyone interested in a trust or in the estate of a deceased person and entitled to a judgment or order for the execution of the trust or the administration of the estate may have the same without making any other person interested therein other than the trustee, executor or administrator a party to the proceeding; provided that a judge may direct that any of such other persons may be added as a party or served with notice. [47 & 48; E. 157 & 158; O. 203 (a) & (b); M. 238 (a) & (b).]

Order for administration against one legatee, etc.

23. Any executor, administrator or trustee entitled to a judgment or order for the administration of the estate or the execution of the trust may have such judgment or order against any one legatee, devisee, next-of-kin or beneficiary. [50; E. 160; O. 203 (f); M. 238 (f).]

JOINDER OF DEFENDANTS.

All persons as defendants

24. All persons may be joined in one action as defendants against whom any right of relief in respect of or arising out of the same transaction or occurrence or series of transactions

or occurrences is alleged to exist whether jointly, severally or in the alternative, where, if separate actions were brought against such persons, any common question of law or fact would arise; provided that, if it shall appear that such joinder may embarrass or delay the trial of the action, a judge may order separate trials or make such other order as may be expedient; and judgment may be given against such one or more of the defendants as may be found to be liable according to and to the extent of his or their respective liabilities without amendment. [29; E. 126 & 129; O. 186 & 192; M. 219.]

Interest of defendant in all relief not necessary

25. It shall not be necessary that every defendant shall be interested as to all the relief prayed for or as to every cause of action included in any proceeding against him; but a judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest. [30; E. 127; O. 187; M. 220.]

All or any persons liable on one contract

26. The plaintiff may join as parties defendant to the same action all or any of the parties severally or jointly or jointly and severally liable on or in respect of any one contract, as well as all parties to any kind of negotiable instrument. [31; v. E. 128; O. 188; M. 221.]

Joinder of surety for performance of a term

27. A surety for the performance of any term of a contract may be made a party to any action upon the contract. [O. 189.]

MISJOINDER OR NONJOINDER OF PARTIES.

Misjoinder and nonjoinder

28. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties and the court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Striking out and adding parties

(2) A judge may at any stage of the proceedings either upon or without the application of either party and on such terms as may appear to the judge to be just order that the name of any party improperly joined whether as plaintiff or as defendant be struck out and that the name of any person be added who ought to have been joined whether as plaintiff or as defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, or in order to protect the rights or interests of any person or class of persons interested under the plaintiff or defendant.

Consent of plaintiff or next friend

(3) No person shall be added or substituted as a plaintiff or as the next friend of a plaintiff without his own consent in writing thereto being first filed.

Application to add or strike out

(4) Any application to add or strike out or substitute a plaintiff or defendant may be made to a judge at any time before trial on notice or at the trial of the action in a summary manner. [35 E. 133; O. 206 (3); M. 242; 36; E. 134; M. 243.]

Addition or substitution of new defendant

29. Where a defendant is added or substituted, the plaintiff shall, unless otherwise ordered, amend his statement of claim in such manner as the making of the new defendant a party

may render proper and serve the amended statement of claim upon the new defendant, who shall, unless otherwise ordered, have the same time to deliver his statement of defence as if he had been a defendant in the first instance and the proceedings as against such defendant shall be deemed to have begun only upon the service of such amended statement of claim. [E. 135; O. 206, 207 & 208.]

REPRESENTATIVE PARTIES AND ABSENT INTERESTED PERSONS.

Where no legal representative, court may appoint a representative of estate or proceed without

30. Where in any action or other proceeding commenced or intended to be commenced it is made to appear that a deceased person who was interested in the matters in question has no legal personal representative, the court or a judge may by order direct that the action or other proceeding may be commenced or continued in the absence of any person representing the estate of the deceased person or appoint some person to represent such estate for all the purposes of the action or other proceeding on such notice as may seem proper and notwithstanding that the estate in question may have a substantial interest in the matters or that there may be active duties to be performed by the person so appointed or that he may represent interests adverse to the plaintiff or that there may be embraced in the matter an administration of the estate whereof representation is sought; and the order so made and all subsequent proceedings shall bind the estate of such deceased person in the same manner in every respect as if there had been a duly appointed legal personal representative of such person and such legal personal representative had been a party to the action or other proceeding and had duly appeared therein. [57; E. 168; O. 194; M. 228.]

Appointment of representative of class, etc.

31. In any case in which the right of heirs or next-of-kin or of a class or of an unborn person shall depend upon the construction of an instrument and it shall not be known or shall be difficult to ascertain who is or are such heirs or next-of-kin or class and the court or judge shall consider that in order to save expense or for some other reason it will be convenient to have the questions of construction determined before such heirs, next-of-kin, class or unborn person shall have been ascertained by means of inquiry or otherwise, the court or judge may appoint some one or more persons to represent such heirs, next-of-kin, class or unborn person and the judgment of the court or judge shall be binding upon the heirs, next-of-kin, class or unborn person so represented.

(2) In any other case in which heirs, next-of-kin, class or unborn persons shall be interested in any proceedings the court or judge may, if, having regard to the nature and extent of the interest of such persons or any of them, it shall appear expedient on account of the responsibility or difficulty of ascertaining such persons or in order to save expense, appoint one or more persons to represent all or any of such heirs, next-of-kin, class or unborn person and the judgment or order of the court or judge shall be binding upon the persons so represented. [44; E. 154; O. 201; M. 234.]

Proceeding in absence of interested persons

32. Where questions arise between parties who are some only of those interested in the property respecting which the question arises or where the property in question is comprised with other property in the same settlement, will or other instrument or is the property of an intestate, the court or judge may, if it be deemed expedient, adjudicate upon the questions arising between such parties without making the other persons interested in the property respecting which the question arises or interested under the settlement, will or other instrument, parties to the action and without requiring the whole trusts and purposes of the settlement, will or other instrument, or the whole estate of the intestate, to be executed or administered under the direction of the court and without taking the accounts of the trustees or other accounting of the property touching which the question or questions have arisen or of the whole estate or assets. [O. 202; M. 237.]

Approval of compromise in absence of interested persons

33. Where in proceedings concerning a trust a compromise is proposed and some of the persons interested in the compromise are not parties to the proceedings, but there are other persons in the same interest before the court and assenting to the compromise, the court or a judge, if satisfied that the compromise will be for the benefit of the absent persons and that to require service on such persons would cause unreasonable expense or delay, may approve the compromise and order that the same shall be binding on the absent persons and they shall be bound accordingly, except where the order has been obtained by fraud or nondisclosure of material facts. [E. 131 A.]

Parties added by court

Conduct of action

34 The court or a judge may require any person to be made a party to any action or proceeding and may give the conduct of the action or proceeding to such person as the court or judge may think fit and may make such order in any particular case as may appear just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question. [51; E. 161; O. 203 (2); M. 239.]

Service of judgment on persons interested

35. The court or a judge may direct that any person interested in the subject matter of the action who is not under these Rules a necessary party shall be served with a copy of the judgment or order endorsed with a notice in Form A; and after such notice such person shall be bound by the proceedings in the same manner as if he had originally been made a party and shall be at liberty to attend the proceedings under the judgment or order. [52 pt.; E. 162 pt.; O. 203 (3) pt.]

Application to discharge, etc., judgment

36. Any person so served may within fourteen days after such service apply to the court or judge to discharge, vary or add to the judgment or order. [52 pt.; E. 162 pt.; O. 203 (3) pt.]

Order binding persons, service on whom is dispensed with

37. The court or a judge may order that any person interested upon whom service of a judgment or order is not directed or has been dispensed with shall be bound as if served and such person shall be bound accordingly except where the judgment or order has been obtained by fraud or nondisclosure of material facts. [E. 797 a.]

Judgment saving rights of nonparties

38. Where at the trial or upon motion for judgment it appears that an action is defective for want of parties, the court or judge may, if it is deemed expedient, render judgment saving the rights of all persons not parties. (O. 205; M. 241.]

Only representatives to appear on creditor's claim in administration proceedings

39. In any action or proceeding for the administration of the estate of a deceased person, no person other than the executor or administrator shall unless by leave be entitled to appear either in court or in chambers on the claim of any person not a party to the action or proceeding against the estate of the deceased person in respect of any debt or liability. The court or a judge may direct or give liberty to any other person interested to appear either in addition to or in the place of the executor or administrator upon such terms as to costs or otherwise as may be thought fit. [58; E. 169; O. 204; M. 251.]

Leave to defend to nonparty

40. Where a person who has not been made a party to an action satisfies the court or a judge that he is interested in the subject matter or result of the action and that it is just and convenient that he should be allowed to defend the action in whole or in part, the court or judge may order that he have leave so to do. The order shall limit a time within which such person is to be at liberty to deliver his statement of defence. If such person defends, the style of cause in his statement of defence and thenceforward in the action shall contain his name as a defendant preceded by the words "and by order." [E. 95-98; O. 180-184; M. 210-215.]

PARTIES WHERE DISABILITY EXISTS, ETC.

Firms as parties

41. The Rules relating to parties to actions by or against firms in the firm name are as provided in r. 146. [E. 48a.]

Infants as parties

42. An infant may sue by his next friend and may defend by the guardian of his estate or, if there be no such guardian, or if it shall be deemed to be in the interests of the infant, by a guardian *ad litem* to be appointed by a judge. [E. 138; O. 197.]

Written authority of next friend

43. Unless otherwise ordered, before the name of any person is used as next friend of an infant or other party or as relator, such person shall sign a written authority to the solicitor to that intent and the authority shall be filed in the office in which the action or proceeding is commenced. [E. 142; O. 198.]

Lunatics as parties

44. A lunatic or person of unsound mind may sue by his guardian or next friend and may defend by his guardian or guardian *ad litem* to be appointed by a judge. [E. 139; O. 217; M. 252.]

45. Where an infant, lunatic or person of unsound mind who is a defendant or has been served with notice of a judgment or order is not represented, a guardian *ad litem* may be appointed for him by a judge. [496; E. 139; O. 155 & 219.]

Parties to mortgage sale or foreclosure actions

46. A mortgagee suing for sale or foreclosure with or without other relief shall not make any subsequent encumbrancer a party to the action except for the purpose of obtaining possession

against a subsequent encumbrancer actually in possession of the mortgaged property; but all subsequent encumbrancers shall be served with notice of the judgment or order directed or made in the action.

Parties to suit by vendor for specific performance

47. A vendor suing for specific performance with or without other relief shall not make any encumbrancer whose claim arose subsequently to the making of the agreement a party to the action, unless special relief is claimed against him; but all subsequent encumbrancers shall be served with notice of the judgment or order directed or made in the action.

THIRD PARTY PROCEDURE.

Notice to third party

48. Where a defendant is or claims to be entitled to contribution or indemnity over against any person, whether a party to the action or not, he may serve such person, hereinafter called the third party, with a notice setting out in the same manner as in a statement of claim the facts upon which he relies and the nature of the relief claimed. [60 pt. & 67; E. 170 pt. & 177; O. 209 pt.; M. 245.]

Filing and service

49. Such notice shall be filed in the office of the clerk in which the statement of claim was filed and a copy thereof shall be served on the third party, together with a copy of the plaintiff's statement of claim, according to the Rules for the service of a statement of claim. [60 pt.; E. 170 pt.; O. 209 pt.; M. 246.]

Setting aside notice

50. A third party may at any time before he defends and the plaintiff may at any time after service of the notice, move to set the notice aside.

Third party bringing in fourth or more parties

51. Any person served with a notice claiming contribution or indemnity may in the same manner as a defendant serve any other person against whom he claims contribution or indemnity with a notice to that effect and all provisions of these Rules relating to third parties shall apply *mutatis mutandis* to any person served with such notice. [E. 176a.]

Statement of defence by third party

52. A third party may by a statement of defence dispute the liability of the defendant to the plaintiff or his own liability to the defendant or both. He shall deliver his statement of defence within such time after service of the notice as is limited for the filing of a defence by a defendant to a statement of claim. If he does not dispute the liability of such defendant to the plaintiff he shall be deemed to admit the validity of any judgment which shall be obtained against such defendant whether obtained by consent or otherwise. If he does not dispute his liability to such defendant he shall be deemed to admit his liability to the extent claimed in the notice. A third party failing to defend within the time limited may, however, apply to a judge for leave so to do and such leave may be given upon such terms, if any, as the judge may think fit. [61; E. 171; O. 210.]

Default of defence by third party

53. Where a third party fails to defend, if the defendant giving the notice suffer judgment by default, he may at any time either before or after satisfaction of the judgment against himself by

leave of a judge have judgment against the third party to the extent of the contribution or indemnity claimed in the third party notice; provided that it shall be lawful for a judge to set aside or vary such judgment upon such terms as may seem just. [62 & 168; E. 172 & 303; O. 211 & 594.]

54. Where a third party fails to defend, in case the action is tried and results in favour of the plaintiff, the judge who tries the action may at or after the trial enter such judgment as the nature of the case may require for the defendant giving the notice against the third party; provided that execution shall not be issued thereon without leave of the judge until after satisfaction by such defendant of the judgment against him. And if the action is finally decided in the plaintiff's favour, otherwise than by trial, the judge may direct such judgment as the nature of the case may require to be entered against the third party in favour of the defendant giving the notice. [63 & 168; E. 173 & 303; O. 212 & 594.]

Defence by third party Application for directions

55. If a third party defends the defendant giving the notice may apply to a judge for directions and the judge upon the hearing of such application may, if satisfied that there is a question proper to be tried as to the liability of the third party in whole or in part, order the question of such liability as between the third party and the defendant giving the notice to be tried in such a manner or after the trial of the action as the judge may direct; and if not so satisfied may direct such judgment or make such order as the nature of the case may require. [64; E. 174; O. 213 (1).]

Leave to third party to defend

56. A judge upon the hearing of the application may, if it shall appear desirable so to do, give the third party liberty to defend the action upon such terms as may be just or to appear at the trial and take such part therein as may be just and generally may order such proceedings to be taken, documents to be delivered or amendment to be made and give such directions as to the judge shall appear proper for having the question most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action. [65; E. 175; O. 213 (2).]

Plaintiff not to be delayed by third party questions

57. A plaintiff shall not be prejudiced or unnecessarily delayed by reason of questions between the defendant and the third party in which he is not concerned and the court or judge shall give all such directions on terms or otherwise as may be necessary to prevent such delay of the plaintiff where it can be done without injustice to the defendant. [68; v. O. 216.]

CHANGE OF PARTIES BY DEATH, ETC.

No abatement by devolution of interest if cause of action survives, nor by death of party between verdict and judgment

58. A cause or matter shall not become abated by reason of the death or insolvency of any of the parties if the cause of action survive or continue and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite;* and, whether the cause of action survive or not, there shall be no abatement by reason of the death of either party between

the verdict or finding of the issues of fact and the judgment, but judgment may is such case be entered notwithstanding the death. [69; E. 178; O. 394.]

Procedure on devolution of interest

59. In the case of an assignment, creation or devolution of any estate or title *pendente lite*, the cause or matter may be continued by or against the person to or upon whom such estate or title has come or devolved. [70; E. 180; O. 395.]

Order to carry on proceedings

60. Where by reason of death or insolvency or any other event occurring after the commencement of a cause or matter and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the cause or matter, it becomes necessary or desirable that any person not already a party should be made a party, or that any person already a party should be made a party in another capacity, an order that the proceedings shall be carried on between the continuing parties and such new party or parties may be obtained *ex parte* on application to a judge upon an allegation of such change or transmission of interest or liability or of any such person interested having come into existence. [72 & 73; E. 181; O. 396.]

Service of

61. An order obtained as in the last preceding Rule mentioned shall, unless the judge shall otherwise direct, be served upon the continuing party or parties or their solicitors and also upon such new party, other than the person making the application, and the order shall from the time of such service, subject nevertheless to the next two following Rules, be binding upon the persons served therewith.

Endorsement upon

(2) Upon every copy of such order there shall be endorsed a notice in Form B. [E. 182; O. 397 & 399.]

Application to discharge or vary

62. Where any person who is under no disability or, being under any disability, has a guardian *ad litem* in the cause or matter, shall be served with such order, such person may apply to a judge to discharge or vary such order at any time within twelve days of the service thereof or such other time as the judge may direct. [75; E. 183; O. 398, 401 & 402.]

63. Where any person being under any disability and not having a guardian *ad litem* in the cause or matter is served with any such order, such person may apply to a judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party, and until such period of twelve days shall have expired such order shall have no force or effect as against such last mentioned person. [76; E. 184; O. 400.]

Application to compel continuance of proceedings

64. When the plaintiff or defendant in a cause or matter dies and the cause of action survives, but the person entitled to proceed fails to proceed, the defendant or the person against whom the cause or matter may be continued may apply to compel the plaintiff (or the person entitled to proceed) to proceed within such time as may be ordered; and in default of such proceedings, judgment may be entered for the defendant or, as the case may be, for the person against whom the cause or matter might have been continued; and in such case, if the plaintiff has died, execution may issue as in the case provided for by r. 598. [77; E. 185; O. 403.]

COUNTERCLAIM.

Counterclaim

65 (*a*) A defendant in any action may by way of counterclaim against the plaintiff's claim or cause of action set up any claim or cause of action by the defendant either against the plaintiff alone or one or more of several plaintiffs or against the plaintiff and another person whether a party to the action or not.

(*b*) All matters which under any statute, ordinance, rule or practice might be pleaded by way of set-off shall, if it is desired to set the same up in the action, be pleaded by way of counterclaim.

(*c*) In all cases such counterclaim shall have the same effect as a cross-action so as to enable the court to pronounce a final judgment in the same action both on the original and on the counterclaim. [110 pt.; E. 199 pt.; O. 251 & 252.]

Exclusion of counterclaim

66. Where a defendant sets up a counterclaim, if the plaintiff or any other person named as a party to such counterclaim contends that the claim thereby raised cannot be conveniently disposed of in the same action, he may at any time apply to the court or a judge for an order that such counterclaim may be excluded; and the court or judge may on the hearing of such application make such order as shall be just. [110 pt.; E. 199; O. 254.]

Proceeding on counterclaim independently of action

67. If, in any case in which the defendant sets up a counterclaim, the action of the plaintiff is stayed, discontinued or dismissed, the counterclaim may nevertheless be proceeded with. [110 pt.; E. 249.]

Judgment on counterclaim only

68. Where in any action a counterclaim is established against the plaintiff's claim, the court or judge may, if the balance is in favour of the defendant, give judgment for the defendant for such balance or may otherwise adjudge to the parties such relief as they may be entitled to upon the merits of the case. [E. 250 ; O. 253.]

Stay of claim until counterclaim disposed of

69. Where a defendant does not dispute the plaintiff's claim and sets up no defence thereto, but sets up a counterclaim, the court or a judge may stay proceedings respecting the plaintiff's claim until the counterclaim is disposed of upon such terms as may seem just. [O. 255.]

TIME FOR ANSWERING PLEADINGS.

Time for answering pleadings

70. Except in the case of a defence or a defence to a counterclaim by a person not a party to the action, the time within which a pleading is to be delivered shall be eight days after the service of the pleading to be answered. [O. 256 & 258.]

Any person served with a counterclaim shall have the same time for the delivery of a defence thereto as if the counterclaim had been a statement of claim.

71. The party at whose instance particulars have been delivered under a judge's order shall, unless the order otherwise provides, have four days for pleading after the delivery of the particulars. [E. 204.]

TITLES OF PLEADINGS.

Formal parts of pleadings

72. Subject to the Rules relating to counterclaims, all pleadings shall be intituled with the name of the court and the judicial district in which the action was commenced and with a style of cause setting forth the names in full of the plaintiff and of the defendant (but not their residences or occupations), and the capacity in which the plaintiff sues and the defendant is sued, if it be a representative capacity, and shall at the conclusion thereof bear the date of delivery and the name and address of the party, solicitor or agent delivering the same. [33 (2); E. 207; 14; O. 120; 266.]

Title of counterclaim against persons other than plaintiff

73. Where a defendant sets up a counterclaim which raises questions between himself and the plaintiff along with any other person or persons, he shall add to the style of cause a further style of cause setting forth his own name as plaintiff and the names of all persons who, if such counterclaim were to be enforced by a cross-action, would be defendants to such cross-action, as defendants by counterclaim; and shall serve his statement of defence, if any, and his counterclaim on such of them as are parties to the action within the period within which he is required to deliver it to the plaintiff. [E. 244; O. 248.]

PAYMENT INTO AND OUT OF COURT AND TENDER.

Payment into court by way of satisfaction, but not admitting claim

74. A defendant may with his defence or at any time later by leave of a judge pay into court a sum of money by way of satisfaction of the claim or of any cause of action set up in the statement of claim; but payment into court shall not be deemed an admission of the claim or of the cause of action in respect of which it is paid. [130; E. 255; O. 419 & 420.]

Payment to be signified in defence

75. Payment into court shall be signified in the defence or by notice when the payment is made after defence, and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. [131; E. 256; O. 421.]

Tender

76. With a defence setting up a tender before action the sum of money alleged to have been tendered shall be brought into court. [132; E. 257; O. 428.]

Payment out to plaintiff

77. When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court is made is admitted, or when payment is accompanied by an allegation of tender before action, the money paid into court shall on request be paid out to the plaintiff, or to his solicitor on the plaintiff's written authority unless a judge shall otherwise order. [134; E. 259; O. 419 & 423.]

Payment into court without admission of liability

78. When the liability of the defendant in respect of the claim or cause of action, in satisfaction of which the payment into court has been made, is not admitted in the defence, the following Rules shall apply:

(*a*) The plaintiff may by his reply accept in satisfaction of the claim or cause of action in respect of which the payment

into court has been made the sum so paid in, in which case he shall be entitled to have the money paid out to him as hereinafter provided, notwithstanding the defendant's denial of liability, whereupon all further proceedings in respect of such claim or cause of action, except as to costs, shall be stayed; or the plaintiff may refuse to accept the money in satisfaction and reply accordingly, in which case the money shall remain in court subject to the provisions hereinafter mentioned.

(*b*) If the plaintiff replies accepting the money, he shall, unless a judge shall otherwise order, be entitled on request to have the money paid out to himself or to his solicitor on the plaintiff's written authority.

(*c*) If the plaintiff does not accept the sum paid into court in satisfaction of the claim or cause of action in respect of which such payment has been made, but proceeds with the action in respect of such claim or cause of action or any part thereof, the money shall remain in court and be subject to the order of the court or judge and shall not be paid out of court except in pursuance of an order. [135; E. 260; O. 423.]

Acceptance by plaintiff of money paid in

(*d*) When the plaintiff takes out money in satisfaction of all the causes of action he may, except when the money has been paid in accompanied by an allegation of tender before action, tax his costs of the action and sign judgment therefor, unless the defendant pays them within forty-eight hours after taxation. [O. 425.]

Payment into court in satisfaction of counterclaim

79. A plaintiff or any person made defendant to a counterclaim may in answer to a counterclaim pay money into court in satisfaction thereof subject to the like conditions as to costs and otherwise as upon payment into court by a defendant. [137; E. 263; O. 427.]

PLEADING GENERALLY.

Pleadings to be brief

80. All pleadings shall be as brief as the nature of the case will admit. [E. 198.]

Contents of pleadings

81. Every pleading shall contain and contain only a plain and concise statement in summary form and in ordinary language of the material facts on which the party pleading relies for his claim or defence as the case may be, but not the evidence by which they are to be proved, and shall, when convenient, be divided into paragraphs numbered consecutively. Dates, sums and numbers shall be expressed in figures and not in words. [109; E. 200; O. 268.]

Particulars

82. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default or undue influence, and in all other cases in which particulars may be necessary, particulars (with dates and items, if necessary) shall be stated in the pleading; provided that, if the particulars be of debt, expenses or damages, and exceed three folios, the fact must be so stated with a reference to full particulars already delivered or to be delivered with the pleading. [E. 202.]

Conditions precedent

83. When any party intends to contest the performance or occurrence of any condition precedent, he shall distinctly specify

in his pleading such condition and its nonperformance or non-occurrence; and, subject thereto, an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleading. [115; E. 210.]

Brief statement of effect of documents

84. Whenever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material. [121; E. 217; O. 275.]

Allegation of malice, fraudulent intention, etc

85. Whenever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person, it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. [122; E. 218; O. 276.]

Allegation of notice

86. Whenever it is material to allege notice to any person of any fact, matter or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred be material. [123; E. 219; O. 277.]

Allegation of implied contract or relation

87. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations or circumstances without setting them out in detail; and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as being implied from such circumstances, he may state the same in the alternative. [125; E. 220; O. 278.]

Facts presumed by law

88. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specificially denied; (e.g. consideration for a bill of exchange where the plaintiff sues only on the bill and not for the consideration as a substantive ground of claim.) [125; E. 221; O. 279.]

Relief claimed to be stated specifically

89. Every statement of claim shall state specifically the relief which the plaintiff claims either simply or in the alternative and it shall not be necessary to ask for general or other relief which may always be given, as the court or a judge may think just, to the same extent as if it had been asked for. And the same Rule shall apply to a counterclaim or relief claimed by the defendant in his defence. [E. 230; O. 273.]

Several distinct claims

90. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated as far as may be separately and distinctly. And the same Rule shall apply where the defendant relies upon several distinct grounds of defence or counterclaim founded upon separate and distinct facts. [E. 231; O. 274.]

Stated or settled account

91. In every case in which the cause of action is a stated or settled account, the same shall be alleged with particulars; but in every case in which a statement of account is relied upon by way of evidence or admission of any other cause of action which is pleaded, the same shall not be alleged in the pleadings. [E. 232.]

Fact not denied to be taken as admitted except against infant or lunatic

92. Every allegation of fact in any pleading not denied expressly or by necessary implication or stated to be not admitted in the pleading of the opposite party shall be taken to be admitted, except as against an infant or lunatic. [114; E. 209.]

Specific denials of essential facts

93. It shall not be sufficient for a defendant in his statement of defence to deny generally the essential allegations of the statement of claim or for the plaintiff in his defence to a counterclaim to deny generally the essential allegations of the counterclaim, but each party must deal specifically with each allegation of fact of which he does not admit the truth, which is essential to the cause of action set up in the claim or counterclaim, except damages. [118; E. 213.]

Defendant relying on different version to set same up

94. If the defendant propose at the trial to disprove the case, or part of the case, set up by the plaintiff by proving a different version of the transaction or occurrence or series of transactions or occurrences relied upon by the plaintiff in support of his cause of action or part thereof, a mere denial of the allegation of the statement of claim shall not be sufficient but the defendant shall set up his version in his defence, but upon so doing may notwithstanding anything in these Rules, deny generally the case or part thereof set up by the plaintiff; and this Rule shall apply to a defence to a counterclaim.

Mere denial of debt inadmissible

95. In actions for a debt or liquidated demand in money a mere denial of the debt shall be inadmissable. [E. 234.]

Defence in actions on bills, etc.

96. In actions upon bills of exchange, promissory notes or cheques, a defence in denial must deny some matter of fact; e.g. the drawing, making, endorsing, accepting, presenting or notice of dishonour, of the bill or note. [E. 235.]

Defence in actions for money demand

97. In actions for money demands a defence in denial must deny such matters of fact from which the liability of the defendant is alleged to arise as are disputed; e.g. in actions for goods bargained and sold or sold and delivered, the defence must deny the order or contract, the delivery or the amount claimed; in an action for money had and received, it must deny the receipt of the money or the existence of those facts which are alleged to make such receipt by the defendant a receipt to the use of the plaintiff. [E. 236.]

Denials must not be evasive

98. When a party in any pleading denies in allegation of fact in the previous pleading of the opposite party, he must not do so evasively but answer the point of substance. Thus, if it be alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount but he must deny that he has received that sum or any part thereof or else set out how much he received. And if an allegation is made with diverse circumstances, it shall not be sufficient to deny it along with those circumstances. [119; E. 215.]

Denial of contract, promise or agreement

99. When a contract, promise or agreement is alleged in any pleading, a bare denial of the same by the opposite party shall be construed only as a denial in fact of the express contract, promise or agreement alleged or of the matters of fact from which the same may be implied by law, and not as a denial of the legality or sufficiency in law of such contract, promise or agreement, whether with reference to the Statute of Frauds or otherwise. [120; E. 216; O. 282.]

No denial as to damages

100. No denial or defence shall be necessary as to damages claimed or their amount or the particulars thereof; but they shall be deemed to be put in issue in all cases unless expressly admitted. [E. 237.]

Denial of right of representative party

101. If either party wishes to deny the right of any other party to claim as executor or as trustee (whether for the benefit of creditors or otherwise), or in any representative or other capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically. [E. 238; O. 280.]

Plea of not guilty by statute

102. Except where the right is given by Imperial Statute in force in the province *proprio vigore* or by Statute of Canada, a defence of "not guilty by statute" shall not be pleaded. In case the defence of "not guilty by statute" is pleaded in pursuance of any such statute as aforesaid, the defendant shall not be permitted to plead any other defence to the same cause of action. [cf. 113; E. 208; O. 286.]

103. In every case in which a party shall plead "not guilty by statute" he shall insert in the margin of his pleading the words "by statute," together with the year in which the Act of Parliament on which he relies was passed and also the chapter and section of such Act and shall specify whether such Act is public or otherwise; otherwise such defence shall be taken not to have been pleaded by virtue of any Act of Parliament. [E. 252; O. 287.]

Matters which show action not maintainable, *e.g.*, fraud or Statute of Limitations to be pleaded

104. The defendant or plaintiff, as the case may be, must raise by his pleading all matters which show the action or counterclaim not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence or reply, as the case may be, as, if not raised, would be likely to take the opposite party by surprise or would raise issues of fact not arising out of the preceding pleadings, as, for instance, fraud, Statute of Limitations, release, payment, performance, facts showing illegality either by statute or common law, or Statute of Frauds. [116; E. 211; O. 271.]

New grounds of claim and inconsistent allegations forbidden

105. No pleading shall, except by way of amendment, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. [117; E. 212; O. 288.]

Joinder of issue

106. The plaintiff by his reply may join issue upon the defence and each party in his pleading, if any, subsequent to reply may join issue upon the previous pleading. [E. 214 pt.]

107. As soon as either party has delivered a joinder of issue upon the pleading of an opposite party, or as soon as the time for amending the pleadings under these Rules or under any order has expired, the pleadings shall be deemed to be closed and issue joined as between these parties. [156 pt. & 157; E. 302 pt.; O. 262 & 306.] Close of pleadings

108. Every material allegation of fact in a pleading upon which issue is joined shall be deemed to have been denied. [108 pt.; E. 214; O. 302 pt.]

109. Where the court or a judge is of opinion that any allegations of fact denied or not admitted, whether in a pleading or after notice to admit fact or otherwise, ought to have been admitted, the court or judge may make such order as shall be just with respect to any extra costs occasioned by their having been denied or not admitted. [E. 242; O. 1149.] Costs of allegations improperly denied

110. Any ground of defence or counterclaim which has arisen after action brought but before the defendant has delivered his statement of defence may be raised by the defendant in his statement of defence, either alone or together with other grounds of defence; and if, after a statement of defence has been delivered, any ground of defence arises to any counterclaim alleged therein by the defendant, it may be raised by the plaintiff in his reply, either alone or together with any ground of reply. In any such case it shall be distinctly alleged that the ground set up has arisen after action brought. [146; E. 278; O. 289 & 290.] Defence or counterclaim arising after action brought

111. Where any ground of defence or counterclaim arises after the defendant has delivered a statement of defence, the defendant may, and where any ground of defence to any counterclaim arises after reply, the plaintiff may, at any time by leave of a judge deliver a further defence or a further reply, as the case may be, setting up such ground of defence or counterclaim. [147; E. 283; O. 291.] Delivery of further defence or reply

112. Whenever any defendant in his statement of defence or in any further statement of defence as in the last Rule mentioned, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence and either party may apply to a judge to dispose of the costs of the action or of such portion thereof as pertains to the defence so confessed. [148; E. 280; O. 295.] Confession of defence

RAISING POINT OF LAW.

113. Any party may in his pleading object to the next preceding pleading of the opposite party on the ground that it discloses no cause of action, defence or answer, as the case may be. The objection shall specify the particular points of law upon which it is based. [149 pt.; E. 282 pt.; O. 259 pt.] Raising of point of law

114. The questions of law so raised shall be disposed of by the judge who tries the action at or after the trial; provided that by consent of the parties or by order of the judge on the

application of either party the same may be set down for hearing and disposed of at any time before the trial. [149 pt.; E. 282 pt.; O. 259 pt.]

Point of law disposing of action

115. If in the opinion of the court or a judge the decision of such point of law substantially disposes of the whole action or of any distinct cause of action, ground of defence, counterclaim or reply therein, the court or judge may thereupon dismiss the action or make such other order therein as may be just. [150; E. 283; O. 260.]

DISCONTINUANCE.

Discontinuance or withdrawal of part of complaint

116. The plaintiff may at any time before receipt of the defendant's defence or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application) by notice in writing wholly discontinue the action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay such defendant's costs of the action or, if the action be not wholly discontinued, the costs occasioned by the matters so withdrawn. Such costs shall be taxed and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action.

(2) Save as in this Rule otherwise provided it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the court or a judge, but the court or a judge may, before or at or after the hearing or trial, upon such terms as to costs and otherwise as may seem just, order the action to be discontinued or any part of the alleged cause of complaint to be struck out.

Withdrawal of defence or counterclaim

(3) The court or a judge may in like manner and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out; but it shall not be competent to a defendant to withdraw his defence or any part thereof without such leave. [174; E. 286; O. 430 & 431.]

Costs of discontinued action

117. Any defendant may enter judgment for the costs of the action, if it is wholly discontinued against him, or for the costs occasioned by the matter withdrawn if the action be not wholly discontinued, if such costs are not paid within four days after taxation. [176; E. 288; O. 430 pt.]

Stay of subsequent action until costs paid

118. If any subsequent action shall be brought before payment of the costs of a discontinued action for the same or substantially the same cause of action, the court or a judge may, if they or he think fit, order a stay of such subsequent action until such costs shall have been paid. [177; E. 289.]

COMMENCEMENT OF ACTION.

STATEMENTS OF CLAIM.

Commencement of action

119. Except as otherwise provided, every action shall be commenced by the issue of a statement of claim by the clerk of any judicial district of the court. [1; O. 120; Man. 172-174.]

Issue of statement of claim

120. The clerk upon a copy thereof being filed with him shall issue the statement of claim by signing the same and sealing it with his seal of office. [2; O. 123.]

121. The statement of claim shall bear the date of the day on which it is issued. [3 pt.; O. 124,]

122. The clerk shall make a note upon the statement of claim of the office and judicial district from which it is issued and shall subscribe his name thereto. [O. 125.]

123. The clerk shall number every document filed with him whereby a proceeding is commenced. All documents subsequently filed in the same proceeding shall be endorsed with the same number. Whenever a document whereby proceedings are commenced is filed with or issued by a clerk, he shall make a note thereof and of the number assigned to the proceeding in the procedure book.

Concurrent statements of claim

124. During the currency of the statement of claim concurrent statements of claim may be issued. They shall bear date of the same day as the original statement of claim and shall also be marked "concurrent" with the date of actual issue. Concurrent statements of claim shall be in force only during the currency of the original statement of claim. [5; E. 40; O. 129.]

Transfer of proceedings

125. The court or a judge may at any time direct that all proceedings in any action be transferred to the office of the clerk of any other judicial district and thenceforward the proceedings shall be intituled and continued in the latter judicial district.

Renewal of statement of claim

126. Every statement of claim shall cease to be effective for any purpose against any defendant thereto who shall not have been served therewith within six months of the issue thereof; but the plaintiff may before but not after the expiration of the six months apply to a judge for leave to renew the statement of claim and the judge, if satisfied that reasonable efforts have been made to serve such defendant or for other good reason, may order that the plaintiff be at liberty to renew the statement of claim for a further period of three months; and so from time to time during the currency of the renewed statement of claim; and upon the filing of the order the clerk shall mark the statement of claim with a memorandum to the following effect: "Renewed for the period of three months from....; by order of....;" which shall be signed by him and sealed with the seal of the court; and all copies for subsequent service shall bear a copy of such memorandum. [6; E. 45; O. 132.]

Endorsements on copies of statement of claim

127. All copies of a statement of claim which are served shall bear on them a copy of all memoranda and endorsements on the original statement of claim. [M. 176, 181 & 285-6.]

128. All copies of a statement of claim which are served shall have at the foot or end thereof or endorsed thereon or attached thereto:

(1) If the statement of claim is issued by a solicitor for the

plaintiff, a statement to that effect and the solicitor's name and address for service; of if by a solicitor as agent for another solicitor, the solicitor's name and address and also the agent's name and address for service, and in either case the address for service shall be within three miles of the office of the clerk from which the statement of claim issses;

(2) If the statement of claim is issued by the plaintiff in person, a statement to that effect and the plaintiff's address for service;

(3) A statement of the plaintiff's residence;

(4) A statement of the defendant's residence so far as known to the plaintiff;

(5) A notice to the following effect:

"To the defendant,....:

"You are hereby notified that the plaintiff may enter judgment in accordance with this statement of claim or such judgment as, according to the practice of the court, he is entitled to, without any further notice to you unless within... (*Here insert the period of time prescribed by the Rules or by any order fixing the time for defence, in the latter case adding the following words:* 'Being the period prescribed by order dated the....day of...., 19....') after service hereof upon you, excluding the day of service, you cause to be filed in the office of the clerk of this court from which the statement of claim has issued, either:

"(1) A statement of defence; or

"(2) A demand that notice of any applications to be made in the action be given to you;

"and unless within the same time a copy of your statement of defence or demand be served upon the plaintiff or his solicitor at his stated address for service." [9; E. 19 & 20; O. 134 & 135.]

Endorsements in proceeding not begun by statement of claim

129. In all cases where proceedings are commenced otherwise than by statement of claim, including proceedings by counterclaim against a person not a party to the action, the provisions of the next preceding Rule, adapted so far as applicable, shall apply to the document by which such proceedings are commenced. [E. 22; O. 136.]

Endorsements on defence or demand of notice

130. The statement of defence or demand of notice and the copies served shall have at the foot or end thereof or endorsed thereon statements showing:

(1) By whom the statement of defence or demand is filed and whether by the defendant in person or by a solicitor on his behalf or an agent for him;

(2) The defendant's residence;

(3) An office or other place to be known as the defendant's address for service within three miles of the office of the clerk from which the statement of claim issued at which address service of subsequent proceedings in this action may be served as effectively as if served upon the defendant personally. [81; E. 80 & 81; O. 169; M. 286.]

If no address or fictitious address

131. If a party fails to give an address for service or gives an address which a judge on *ex parte* application declares to be a fictitious or illusory address, he shall not be entitled to be served with any pleadings or other proceedings in the action. [9 pt.; 82 pt.; E. 82; O. 170.]

Meaning of delivery of a pleading

132. In these Rules delivering a pleading means the filing and service thereof. [E. 206; O. 267.]

Personal service, when dispensed with

133. No personal service on a defendant of a statement of claim, or other document by which an action or proceeding may be commenced, shall be required when the defendant by his solicitor accepts service and undertakes to file and files a statement of defence or demand of notice. [E. 48; O. 145; M. 180.]

Solicitor not filing defence, etc., in pursuance of undertaking

134. A solicitor not filing a statement of defence or demand of notice for a defendant in pursuance of his written undertaking so to do shall be liable to an attachment. [E. 88; O. 174.]

Service to be personal, where reasonably practicable

135. Service of a statement of claim against a person other than a plaintiff shall as far as reasonably practicable be made upon the defendant personally. [E. 49; M. 182.]

Substituted service

136. If it be made to appear to a judge that the plaintiff is unable to effect prompt personal service, whether because the whereabouts of the defendant cannot be ascertained or for any other reason, the judge may make such order for substituted service by advertisement or otherwise as may be just; provided that, if it appear that the defendant is or is likely to be without the jurisdiction of the court, such a case shall be shown as would justify an order for service without the jurisdiction; and provided that judgment shall not be entered in default of defence in any case of such substituted service except by leave of a judge. [15, 21 & 22; E. 49; O. 146 & 167; M. 182 & 183.]

Service in case of an infant

137. Where the action is in respect of real or personal property in which an infant is interested, the infant shall not be served but service shall be made upon the guardian of the estate of the infant if there be one, unless a guardian *ad litem* shall have been appointed. In that case the guardian *ad litem* shall be served. If there be no guardian of the estate and no guardian *ad litem* shall have been appointed then service shall be made upon the official guardian. Where the guardian of the estate, the guardian *ad litem* or the official guardian is served for more than one infant defendant, one copy only need be served but the name of each person on whose behalf such guardian is served shall be stated upon the copy.

(2) In the case of service upon the official guardian the official guardian shall be the guardian *ad litem* of the estate of the infant until the court or a judge otherwise orders.

(3) It shall be the duty of the guardian *ad litem* promptly to attend to the interests of the infant and to take all such proceedings as may be necessary for the protection of such interests and for that purpose to communicate with all proper persons and parties, including the father, the guardian of the estate of the infant if there be one, and the person with whom or under whose care the infant is. [14 (8); E. 51; O. 152 (2) & (3); M. 189.]

138. Where the action is brought for the recovery of possession of real or personal property actually in the possession of an infant defendant, he also shall be served in the same manner as if he were an adult defendant. [O. 153; M. 190.]

139. Where the action is brought in respect of a personal tort or for the recovery of money only, an infant defendant may be served in the same manner as if he were an adult, but a judge may order that in addition thereto service be made upon or notice be given to any other person with a view to the protection of the defendant's interest. [O. 154; M. 191.]

Service in case of lunatic

140. Where the action is brought against a lunatic, whether so found or not, service upon the guardian of the estate of the lunatic, if there be one, and otherwise upon such person as a judge shall direct, shall be sufficient. [14 (9); E. 52 (2); O. 157 & 158.]

Service upon a firm

141. The rules for the service of persons sued in a firm name are as provided in r. 146.

Service upon a corporation

142. Service of a statement of claim may be made upon a corporation aggregate, whether its principal or head office be within or without the jurisdiction and whether the corporation be domestic or foreign, by serving the mayor, reeve, president, chairman or other head or chief officer, or the manager, managing director, cashier, secretary, treasurer, secretary-treasurer, clerk, agent or other representative by whatsoever name or title he may be known, of the corporation (whether such head or chief officer or other representative reside or be within or without the jurisdiction), or of any branch or agency of the corporation within the jurisdiction, or (without restricting the generality of the foregoing provisions) in the case of railway companies, any station master or station agent, or in the case of any telegraph company, any telegraph operator having charge of any office of the company, or in the case of any express company, any express agent having charge of any office of the company, or in the case of a chartered bank, any manager, assistant manager, agent or assistant agent, or accountant of the bank, and in the case of any life, accident or fire insurance company or guaranty company, any provincial or district agent or representative resident in the province, or in the case of a foreign corporation, registered in pursuance of *The Foreign Companies Ordinance*, any attorney appointed as the company's attorney in pursuance of the said Ordinance, or in the case of any corporation in respect whereof provision is made by Statute or Ordinance for the mode of service on the company, in the manner provided by such Statute or Ordinance, or in any case, the person for the time being acting in the place of any of the above mentioned officers. [14 (3); E. 55; O. 159 & 160; M. 198-200.]

Service upon representative

143. If the defendant is out of the jurisdiction but has an agent, manager, managing clerk or other representative resident and carrying on his business within the jurisdiction, service made upon such agent, manager, managing clerk or other representative shall be deemed service upon the defendant. [14 (2); O. 147.]

Application to set aside service or statement of claim

144. A defendant before delivering a defence shall be at liberty to apply to a judge to set aside the service of the statement of

claim upon him, discharge or set aside the order authorizing such service or to set aside the statement of claim, on the ground of irregularity or otherwise. [87; E. 100.]

Disclosure as to authority of solicitor

145. Every solicitor whose name is endorsed on any statement of claim or other proceeding by which a cause or matter is commenced, shall on demand in writing made by or on behalf of any party or person who has been served therewith, declare forthwith, in writing whether the cause or matter has been commenced by him or with his authority or privity.

(*a*) If he answers in the affirmative then he shall also, in case a judge so directs, disclose in writing within a time to be limited by the judge the profession or occupation and the place of abode of the plaintiff or party on whose behalf he is acting on pain of being guilty of a contempt of court.

(*b*) If the solicitor declares that the cause or matter was not commenced by him or with his authority or privity, all proceedings upon the same shall be stayed and no further proceedings shall be taken thereupon without leave of a judge. [10; E. 42; O. 143; M. 178.]

ACTIONS BY AND AGAINST FIRMS.

Action by firm

146. Where an action is commenced in the name of a firm, the plaintiffs or their solicitor shall on demand in writing by or on behalf of any defendant declare forthwith in writing the names and places of residence of all the persons constituting the firm.

(*a*) If the plaintiffs fail to comply with such demand, all proceedings in the action may upon an application for that purpose be stayed upon such terms as a judge may direct.

(*b*) Where the names of the members of the firm are so declared, the action shall proceed in the same manner and with the same consequences in all respects as if they had been named as the plaintiffs in the statement of claim, but all proceedings shall nevertheless continue in the name of the firm. [38; E. 648 (b); O. 144; M. 179.]

Partners, how suing or sued

(*c*) Any two or more persons claiming or being liable as co-partners carrying on business within the jurisdiction may sue or be sued in the name of the respective firms, if any, of which such persons were co-partners at the time of the accruing of the cause of action; and any party to an action may in such case apply to a judge for a statement of the names and addresses of the persons who were, at the time of the accruing of the cause of action, co-partners in any such firm to be furnished in such manner and verified on oath or otherwise as the judge may direct. [37 pt.; E. 648 (a); O. 222.]

Service upon partners

(*d*) Where persons are sued as partners in the name of their firm, the statement of claim shall be served either upon any one or more of the partners or at the principal place within the jurisdiction of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and such service shall be deemed good service upon the firm so sued whether any of the members thereof are out of the jurisdiction or not and no leave for such service shall be necessary; provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before

the commencement of the action the statement of claim shall be served upon every person within the jurisdiction sought to be made liable. [39; E. 648 (c); O. 223.]

Defence by partners

(*e*) A defence by persons sued as partners in the name of their firm shall be in the name of the firm but shall disclose the names and addresses of the several members of the partnership and any member of the firm shall nevertheless be at liberty to defend in his own name individually; but all subsequent proceedings shall continue in the name of the firm. [41; E. 648 (e); O. 225.]

No defence except by real partners

(*f*) Where a statement of claim is served upon a person having the control or management of a partnership business, no defence by him shall be necessary unless he is a member of the firm sued. [42; E. 648 (f); O. 226.]

Execution of judgment against a firm

(*g*) Where a judgment or order is against a firm, execution may issue:

(1) Against the firm;

(2) Against any person who has defended in his own name and has admitted on the pleadings that he is or who has been adjudged to be, liable as a partner;

(3) Against any partner who has been individually served with the statement of a claim and has failed to defend.

(*h*) If the party who has obtained judgment or an order claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the court or a judge for leave so to do; and the court or judge may give such leave if the liability be not disputed or, if such liability be disputed, may order that the liability of such person be tried and determined in any manner in which any issue in an action may be tried or determined. But except as to any property of the partnership a judgment against a firm shall not render liable, release or otherwise affect any member thereof who was out of the jurisdiction when the action was commenced and has not defended, unless he was a party under his individual name to the action or has been served within the jurisdiction. [344; E. 648 (h); O. 228.]

Attachment of debts owing from a firm

(*i*) Debts owing from a firm carrying on business within the jurisdiction may be attached, although one or more members of such firm may be resident out of the jurisdiction; provided that the garnishee order is served within the jurisdiction upon any person having the control or management of the partnership business or any member of the firm. A notice of dispute of liability in the name of the firm shall be sufficient. [E. 648 (i); O. 229.]

Actions between co-partners and firm and partners

(*j*) The above Rules shall apply to actions between a firm and one or more of its members and to actions between firms having one or more members in common, provided such firm or firms carry on business within the jurisdiction, but no execution shall be issued in such actions without leave of the court or a judge and on an application for leave to issue execution all such accounts and inquiries may be directed to be taken and made and directions given, as may be just. [E. 648 (k); O. 230.]

Trading under assumed name

(*k*) Any person carrying on business within the jurisdiction in a name or style other than his own name, may be sued in such name or style as if it were a firm name; and, so far as the nature of the case will permit, all Rules relating to proceedings against firms shall apply. [16 (5) & 37 pt.; E. 648 (1); O. 231.]

TIME FOR DEFENCE.

Time limited for defence

147. The period of time after service of the statement of claim within which a defendant is required to serve his statement of defence or demand of notice if served out of the jurisdiction shall be such time as is fixed by the order permitting such service; and if served within the jurisdiction shall be as follows:

Within fifteen days after service, excluding the day of service, if he be served south of the fifty-fifth parallel of north latitude;

Within thirty days, if he be served north of the said parallel of north latitude:

Provided that in any case a judge may by order either reduce or extend the periods of time above stated. [3 pt.; O. 168.]

PROCEDURE UPON DEFAULT OF DEFENDANT.

Procedure in default of defence or demand

148. In default of the defendant filing or serving his statement of defence or his demand of notice within the time limited the plaintiff may, having regard to the nature of the claim, on *praecipe* and proper proof by affidavit, either enter final judgment against the defendant or require the clerk to enter in the procedure book a note to the effect that the defendant is in default, but the defendant may deliver a statement of defence at any time before final judgment has been entered or before he has been noted in default and may deliver a demand of notice at any time before final judgment.

Judgment on default against infant, etc.

149. Judgment shall not be entered against an infant or a lunatic on default except by leave of a judge. [88; E. 101.]

Defendant in default not entitled to notice

150. Except where otherwise provided by these Rules or where otherwise ordered by the court or a judge, a defendant who fails to defend or demand notice shall not be entitled to notice of any subsequent proceedings in the action. [82 pt.; O. 573.]

Filing documents on default of defendant

151. Where a defendant fails to defend or demand notice, the plaintiff before taking proceedings upon such default shall, unless otherwise ordered, file an affidavit of service of the statement of claim or other document by which the cause or matter is commenced or the notice in lieu thereof, as the case may be. [89; E. 102; O. 574 changed.]

Final judgment where demand liquidated

152. When a statement of claim includes a claim for a debt or liquidated demand with or without interest and whether such interest is by way of damages or not and any defendant fails to deliver a statement of defence or delivers a defence limited to part only of the claim, the plaintiff may as against such defendant enter final judgment for any sum in respect of which no defence is delivered, not exceeding the principal sum claimed with such interest as is justified by the statement of claim to the date of judgment and for his costs appropriate to such claim and may proceed with the action against any other defendants and in respect of any other claims. [90, 91, 158, 159, 162, 168; E. 103, 104, 107 pt.; 295, 296 & 298; O. 575, 587.]

Judgment for recovery of goods or possession of land

153. When a statement of claim includes a claim for the recovery of goods or land and any defendant fails to deliver a statement of defence or delivers a defence limited to part only of the claim,

the plaintiff may as against such defendant enter judgment for the recovery of the goods or possession of the land in respect of which the defence is delivered and for his costs appropriate to such claim and may proceed with the action against any other defendants and in respect of any other claims. [92, 93 & 96, 160, 161, 163 & 165; E. 105-108, 293-298; O. 577, 578, 588, 590.]

Judgment in action on bond

154. In any action on a bond for nonperformance of any covenants or agreements in any indenture, deed or writing contained, if the defendant fails to defend, the plaintiff shall be entitled to sign judgment for the amount of the penalty and costs but shall not be entitled to issue execution thereon except for the amount or amounts of such damages as shall be assessed as directed by a judge upon the breaches alleged in the statement of claim or upon any further breaches which the plaintiff may from time to time subsequently suggest by notice to be served upon the defendant. [E. 114; O. 580.]

Judgment where counterclaim, but no or partial defence

155. When a defendant sets up no defence or no defence to part of the claim but sets up a counterclaim, no execution shall be issued by the plaintiff without leave. [165 pt.; E. 298 pt.; O. 255.]

Noting in default

156. In all cases other than those provided for by the next three preceding Rules, where a defendant either by original action or by counterclaim has made default in delivering a defence or a demand of notice, the plaintiff may on *praecipe* note such defendant in default. [O. 263.]

Order after noting in default

157. If a sole defendant has, or all the defendants have, been noted in default, the plaintiff may apply *ex parte* to a judge and the judge may with or without proof of the plaintiff's claim, as he shall see fit, make such order for final judgment or assessment of damages or otherwise as the plaintiff is entitled to. [99 pt.; 166; E. 300; O. 593.]

Some defendants only in default

158. If some only of the defendants have defended, the plaintiff may proceed with the action against the defendants who have defended and at the trial or other disposition of the action the court or judge may give such judgment against all or any of the defendants as the circumstances of the case shall require, or the plaintiff may apply to a judge on notice to the defendant or defendants who have defended, unless such notice be dispensed with by the judge, for an order by way of judgment against any defendants noted in default and the judge may make such order for final judgment or assessment of damages or otherwise against the latter defendants as the plaintiff is entitled to without prejudice to the right of the plaintiff to proceed with the action against the other defendants. [99 pt.; 167; E. 301; O. 593.]

Judgment of nullity of marriage

159. Notwithstanding anything contained in the next preceding two Rules, no order for final judgment of nullity of marriage shall be made, whether or not there is default of defence, until the judge is satisfied of the truth and sufficiency of the facts on which the claim for such judgment is founded. [99 pt.]

160. Where on a claim for damages a plaintiff becomes entitled to note a defendant in default, he may in lieu thereof sign final judgment for the sum of $10 as damages and, if such claim be the only claim in the action, for the costs of the action to be taxed; and if instead of signing final judgment he proceeds to an assessment of damages, and fails to recover more damages than $10, he shall not, unless the court or a judge otherwise orders, recover any costs of noting the defendant in default or costs subsequent thereto and shall pay the costs of the defendant, if any, subsequent to such noting. [O. 589 A.] Damages in lieu of noting in default

161. In all actions in which a defendant delivers a demand of notice the plaintiff shall be entitled to proceed against him in the same manner as if he had not done so, except that he shall be entitled to notice of all motions against him subsequently made in the action, unless in any particular instance the court or judge before whom any such motion is made shall dispense with such notice. Procedure on delivery of demand of notice

162. Where any order is made in an action striking out the defence of a defendant, the consequences shall be the same as if the defendant had failed to deliver any defence or demand of notice. Consequences of order striking out defence

163. Any judgment entered upon default of defence or in pursuance of an order obtained *ex parte* may be set aside or varied by a judge upon such terms as may be just. [100 & 102; E. 110, 304; O. 639.] Setting aside judgment upon default

SITTINGS OF COURT.

164. The Appellate Division of the Supreme Court shall sit twice a year at Edmonton and twice a year at Calgary on such days as the judges thereof shall appoint and at any other time and place that the said judges may deem necessary. Sittings of Appellate Division

165. The chief justice of the court when sitting shall preside at such sittings and in his absence the senior judge sitting shall preside. [S.C. Act, s. 31.]

166. Any such sitting may be adjourned from time to time and from place to place as may be necessary. [498.]

167. The judges of the Supreme Court shall appoint the days and places upon which sittings for trial of actions shall be held, but a judge may hold a special sitting at any other time or place. [O. 113.] Sittings for trial of action

168. Sittings in chambers shall be held at Edmonton and Calgary on such days and hours as the resident judges shall appoint. Sittings in chambers

169. If from illness or other cause there should be no judge present at the time and place appointed for holding a sitting, the clerk may make such adjournment or adjournments as may be necessary. [543.] Adjournments

170. Any sittings of a single judge either in court or in chambers may be adjourned from time to time and from place to place as to the said judge may seem meet.

Hearing during vacations

171. One or more of the judges shall be selected for the hearing (in Edmonton and Calgary) during the vacations of all such applications as may require to be heard promptly. [O. 114.]

MODE OF TRIAL.

Trial with jury

172. In actions of slander, libel, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, if either party signify his desire that the action be tried with a jury, the action shall be directed to be tried with a jury. [E. 426; O. 102.]

173. In any other case upon the application of either party the judge may in his discretion direct that the action or that any particular issue in the action be tried with a jury or that the amount of damages only be ascertained by a jury. [170; E. 430.]

174. No action shall be tried with a jury, unless it has been commenced in or transferred to the Supreme Court.

175. Every trial of any question or issue of fact with a jury shall be by a single judge with a jury of six persons, whose verdict shall be unanimous. [172; E. 433.]

Trial without jury;

176. Unless the trial is directed to be with a jury the mode of trial shall be by a judge without a jury; provided that in any case the court or a judge may at any time order any cause, matter, or issue to be tried by a judge with a jury or by a judge sitting with assessors or by a special referee with or without assessors. [E. 431.]

Separate trials of different questions

177. The court or a judge may order that different questions of fact arising in any action be tried by different modes or that one or more questions of fact be tried before the others and may appoint the place or places for trial; and in all cases may order that one or more issues of fact be tried before any other or others. [E. 432; O. 531; M. 547.]

Trial by two or more judges

178. Either party to an action may apply to the appellate division for a trial before two or more judges with or without a jury and the court may in its discretion upon hearing the parties grant or refuse the application. [O. 533; M. 549.]

179. When the Crown is actually or immediately interested, a trial before two or more judges may be had as of right. [O. 534; M. 550.]

180. When a trial before two or more judges is directed, the court may appoint such time and place for the trial as it may think fit. [O. 535; M. 557.]

ENTRY FOR TRIAL.

181. Either party may enter the action for trial, the plaintiff not later than ten days and the defendant not later than four days before the first day of the sittings at which the action is directed to be tried. [E. 446; O. 538 pt.; M. 555.] Entry for trial

182. If both parties enter the action for trial it shall be tried in the order of the first entry. [O. 542 (5).] Order of trial

183. Any party entering an action for trial shall not later than the day following such entry give notice thereof to the opposite party. Notice of entry for trial

184. When direction is made that a trial be with a jury the party at whose instance such direction is made shall, unless otherwise ordered, within ten days of such direction and not later than two weeks before the first day of the sittings at which the trial is directed to be held, deposit with the clerk such sum of money as the clerk shall consider sufficient to pay the expenses of such jury and in the event of such sum proving insufficient such party shall upon demand pay such further sum as the clerk may require. If any surplus remain after payment of the said expenses by the clerk, it shall be returned. If default is made in making such deposit, the direction for trial shall thereupon become ineffective. [171.] Deposit of expenses of jury

185. Before an action shall be entered for trial, the party desiring to enter it shall deliver to the clerk one copy of the whole of the pleadings and of the particulars, if any, in the action for the use of the judge at the trial. [E. 454; O. 539; M. 556.] Pleadings and particulars for use of judge

186. An action may be withdrawn from trial by either party upon producing a consent in writing signed by the other party or his solicitor but not otherwise except by order. [175; E. 287, 291; O. 543.] Withdrawal by consent

187. Actions not tried or disposed of after being once entered for trial shall, unless otherwise ordered, remain for trial at the next sittings for the trial of similar actions at the place where such actions were entered. [O. 544. changed.] Untried actions

CONDUCT OF TRIAL AND ADDRESSES TO JURY.

188. If, when an action is called on for trial, the plaintiff appears and the defendant does not appear, the plaintiff may prove his claim as far as the burden of proof lies upon him. [254; E. 455; O. 545.] Proof by plaintiff on nonappearance of defendant

189. If, when an action is called on for trial, the defendant appears and the plaintiff does not, the defendant, if he has no counterclaim, shall be entitled to judgment dismissing the action; but if he has a counterclaim he may prove such counterclaim as far as the burden of proof lies upon him. [255; E. 456; O. 546.] Plaintiff not appearing

Exclusion of witnesses

190. The judge at the trial may if he deems it expedient order a witness whether he be a party or not to be excluded from the court until he is called to give evidence, and he may order a party to be examined before the other witnesses on his behalf; and any witness or party who disobeys such order shall be liable to be punished for contempt as the judge may direct and the judge may in his discretion exclude the testimony of any witness or party disobeying such order. [O. 547.]

Addresses to jury

191. Upon a trial with a jury the addresses to the jury shall be regulated as follows:

The party who begins shall be allowed to open his case to the jury and at the close of his case (if his opponent announces his intention not to adduce further evidence) to address the jury a second time for the purpose of summing up the evidence, and his opponent shall have the right to reply; but if his opponent announces his intention to adduce further evidence, he shall have the right to open his case and then to adduce such evidence as he may see fit and thereafter to sum up the evidence, and the party who begins shall have the right to reply.

(2) When a defendant claims a remedy over against a co-defendant, he shall have the right to address the jury after the co-defendant.

(3) When a party is represented by counsel, the right conferred by this Rule shall be exercised by his counsel. [259; E. 460; O. 548.]

Proof of material fact left over

192. In actions tried by a judge without a jury, if through accident or mistake or other cause a party omits or fails to prove some fact material to his case, the judge may proceed with the trial subject to such fact being afterwards proved at such time and subject to such terms and conditions as to costs and otherwise as the judge shall direct. [258; O. 549.]

Damages where cause of action continuing

193. Damages in respect of any continuing cause of action shall be assessed down to the time of the assessment. [244; E. 482; O. 552.]

Postponement or adjournment of trial

194. The judge may postpone or adjourn a trial to such time and place and upon such terms as he shall think fit. [257; E. 458; O. 553.]

Delivery out of exhibits

195. Exhibits at the trial may be delivered out to the party whose property they are, at any time after judgment without any order on the consent of the opposite party; or without such consent upon application on notice to the opposite party at any time after the time for appealing has expired, if no notice of appeal has been given.

Order for inspection

196. A party to a cause or matter may apply to the court or a judge for an order for the inspection by the jury or by himself or by his witnesses of any person or any real or personal property whose inspection may be material to the proper determination of the question in dispute, and the court or judge may make such order upon such terms as to costs and otherwise as the court or judge may think fit. [402 pt.; E. 661 pt.; O. 571.]

197. The judge by whom any cause or matter is tried with or without a jury or before whom any cause or matter is brought by way of appeal, may inspect any property or thing concerning which any question arises therein. [402; E. 660; O. 570.] Inspection by judge

198. In actions for libel or slander in which the defendant does not by his defence assert the truth of the statement complained of, the defendant shall not be entitled on the trial to give evidence in chief with a view to mitigation of damages as to the character of the plaintiff without the leave of the judge, unless seven days at least before the trial he furnishes particulars to the plaintiff of the matters as to which he intends to give evidence. [E. 461; O. 488.] Evidence in mitigation of damage

199. The judge may in all cases disallow any questions put in cross-examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the cause or matter. [260; E. 462.] Disallowance of cross-examination

200. The judge shall, at or after trial, direct judgment to be entered without a motion for judgment or may adjourn the case for further consideration. [261; E. 463; O. 554.] Direction for entry of judgment

201. A verdict or judgment obtained when a party does not appear at the trial may be set aside by a judge upon such terms as may seem just upon an application made within fifteen days after the trial. [256; E. 457; O. 778.] Setting aside of judgment obtained in absence of party

202. If the jury disagrees and finds no verdict, the judge at or after the trial may notwithstanding dismiss the action. [O. 780.] Disagreement of jury

203. When the jury is asked to answer questions of fact and answers some but not all of them or the answers are conflicting so that judgment cannot be entered upon such findings, it shall not be necessary to move to set aside such findings, but the action may proceed as in the case of disagreement of a jury. Answers of jury absent or conflicting

(2) Where the answers entitle a party to judgment as to some but not all of the causes of action, the judge may direct judgment to be entered as to those of the causes of action as to which the findings are sufficient to entitle the party to judgment and the action may, as to the remaining causes of action, proceed as in the case of a disagreement of a jury. [O. 781.]

SERVICE OUTSIDE THE JURISDICTION.

204. Service outside Alberta of any document by which any action, matter or proceeding is commenced against any person or of notice thereof, may be allowed by a judge whenever— Service outside jurisdiction

(*a*) The whole subject matter is land situated within Alberta, with or without rent or profits;

(*b*) Any act, deed, will, contract or obligation affecting land situated within Alberta is sought to be construed, rectified, set aside or enforced;

(*c*) Any relief is sought against any person domiciled or ordinarily resident within Alberta;

(*d*) The proceeding is for the administration of the estate of any deceased person who at the time of his death was domiciled within Alberta or for the execution (as to property situated within Alberta) of the trusts of a written instrument of which the person to be served is a trustee, which ought to be executed according to the law of Alberta;

(*e*) The action is founded upon a judgment of any court of Alberta or of the Supreme Court of the North-West Territories or on a breach within Alberta of a contract, wherever made, which, according to its terms, ought to be performed within Alberta;

(*f*) An injunction is sought as to anything done or to be done within Alberta or any nuisance within Alberta is sought to be prevented or removed, whether damages are or are not claimed in respect thereof;

(*g*) A person out of Alberta is a necessary or proper party to an action properly brought against another person duly served within Alberta;

(*h*) The proceeding is for any other matter and it appears to the satisfaction of the judge that the person initiating the same has a good cause of action upon a judgment, or for alimony, or in respect of a tort committed within Alberta, and that the person against whom the proceeding is initiated has assets in Alberta of the value of $200 at least which may be rendered liable for the satisfaction of any judgment or order pronounced in the proceeding; but in such case, if no defence is filed, no judgment shall be entered except by leave of a judge and upon such conditions and in such manner as may seem proper. [18; E. 64; O. 162.]

Documents in support of application

205. Every application for leave to serve any such document or to give notice thereof out of Alberta shall be supported by affidavit or other evidence stating that in the belief of the deponent the applicant has a right to the relief claimed and showing in what place or country the person to be served is or probably may be found and the grounds upon which the application is made; and every order allowing such service shall limit the time within such proceeding shall be answered or opposed and in limiting such time regard shall be had to the place where service is to be effected. [19 & 20; E. 67 & 68; O. 163 & 164.]

Applications in proceedings to be by motion

206. Where an application is authorized to be made to the court or a judge in any action or proceeding, such application shall be made by motion. [458; E. 696; O. 355; M. 428.]

No summons, rule or order to show cause. Notice of motion

207. No summons, rule or order to show cause shall be granted in any cause or matter; but when any person other than the applicant is entitled to be heard on a motion he shall be served with notice thereof, but no notice of motion shall, except by leave of a court or judge be given after the expiration of one year from the time when the party desiring to give such notice first became entitled so to do. [E. 697 & 698; O. 356; M. 429.]

208. Where by any Statute or Ordinance any application is authorized to be made by summons such application may be made by notice of motion.

209. If satisfied that no notice is necessary or that the delay caused by proceeding by notice of motion might entail serious mischief, the court or a judge may make an order *ex parte* upon such terms as may seem just. [458; E. 698; O. 357; M. 430.] *Ex parte* order

210. A party affected by an *ex parte* order or any party who has failed to appear on an application through accident or mistake or insufficient notice thereof, may move to rescind or vary the order before the judge or officer who made the same or any judge or officer having jurisdiction within four days from the time the order has come to the notice of such party or within such further time as the court or a judge may allow and whether the order has been acted upon by the party issuing it or not. [E. 739; O. 358.] Rescission, etc., of order

211. If on hearing of a motion or other application it appears that any person to whom notice has not been given ought to have had notice, the court or judge may either dismiss the motion or application or adjourn the hearing thereof in order that notice may be given upon such terms as may seem just. [461; E. 701, 762b & 768; O. 360; M. 432.] All proper parties not served

212. When on any application it appears to the judge desirable that any question of law or fact should be first determined before dealing further with the application, the judge may direct such question to be first argued or determined upon such terms as to costs, adjournment and otherwise as he deems proper and upon the determination of such question the judge may either finally dispose of the application or proceed with a further hearing thereof, as may be proper. [463.] Determination of preliminary question

213. The plaintiff may without leave serve a notice of motion for an injunction and may, by leave of a judge to be obtained *ex parte*, serve any other notice of motion upon any defendant with the statement of claim or at any time after the service of the statement of claim and before the time limited for defence of such defendant; and any notice of motion may be served on the plaintiff by the defendant at any time after the issue of the statement of claim and either before or after the defence. [465; E. 704; O. 361.] Service with claim or before time for filing defence

214. A notice of motion to set aside any proceeding for irregularity must specify clearly the irregularity complained of and the several objections intended to be insisted upon. [540; E. 1039; O. 362.] Irregularity to be stated in notice

215. An order simply directing or giving leave for the doing of any act by an officer of the court other than a barrister or solicitor need not be issued unless a judge so directs, but the production of a note or memorandum signed by a judge shall be sufficient authority for such act. [468; E. 709.] Memorandum authorizing act by officer of court

216. Before any motion is made for interim alimony or costs the plaintiff shall serve notice on the defendant of the amounts demanded by her specifying the time and place for payment thereof, and the defendant may give notice in writing that he Defendant may notify plaintiff that he submits to pay interim alimony claimed or less sum

submits to pay the interim alimony and costs so demanded by the plaintiff; and in that case no order shall be taken out until there has been a default in payment; and in case of default, upon affidavits being filed verifying the statement of claim, the notice of admission and the default, an order for the payment of the sum demanded shall be issued on *praecipe*. [O. 370.]

217. The defendant may give notice in writing that he submits to pay such less sum as he may deem proper and may name in his notice; and in the event of the plaintiff accepting the same the defendant shall thereafter pay the sum so offered as interim alimony and no order shall be taken out until there has been a default in payment. Where the plaintiff does not accept the amount offered and the same is found to be reasonable upon a motion for interim alimony, no order shall be taken out until there has been a default in payment. [O. 370.]

SPECIAL CASE.

Parties may concur in stating special appeal from judge

218. The parties to any cause or matter may at any stage thereof, and the parties to any dispute before any proceedings have been instituted may by leave of a judge, concur in stating the questions of law arising therein in the form of a special case for the opinion of the court. [250; E. 398 pt.; O. 372.]

Form and contents of special case

219. Every such special case shall be divided into paragraphs numbered consecutively and shall concisely state such facts as may be necessary to enable the court to decide the questions raised thereby. [250 pt.; E. 389 pt.]

Agreement as to specific relief

220. Any agreement for a special case shall be signed by the parties or their solicitors and shall be filed by the plaintiff and such agreement may provide that on the judgment of the court being given in the affirmative or negative of the question or questions of law raised, certain specific relief may be given and the court may give judgment for such relief accordingly with or without costs as the parties may agree. [253; E. 391 & 394; O. 372 & 374.]

Power to draw inferences

221. Upon the argument of the case the whole contents of any documents referred to in the case may be read and the court may draw from the facts stated in the case and the documents therein referred to any inference whether of fact or law as at a trial. [250 pt.; E. 389 pt.; O. 372.]

Persons under disability

222. No judgment shall be given in a special case to which an infant or person of unsound mind is a party unless the court or judge is satisfied of the truth of the statements in such special case contained so far as the same affects the interests of such infant or person of unsound mind. [252; E. 392; O. 375.]

Preliminary question of law

223. If it appears that there is in any action or matter a question of law which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried or before any reference is directed, the court or a judge may make

an order accordingly and may, if necessary, direct the mode in which such question shall be raised and may, if necessary, stay other proceedings. [251; E. 390; O. 373.]

Settlement of issues

224. Where it appears to a judge that the pleadings do not sufficiently define the issues of fact he may direct the parties to prepare issues; or, in the event of difference between the parties, may settle the issues to be tried, and may give such directions as may be necessary for the trial thereof. [232; E. 380; O. 376.]

ORDER FOR DIRECTIONS.

Time of application

225. In every action in which a statement of defence or an issue has been delivered, unless the defendant has already made application the plaintiff shall apply to a judge upon two clear days' notice returnable in not less than four days for an order for directions.

(2) The notice may be given at any time after the delivery of the statement of defence or the issue.

(3) No step shall be taken by the plaintiff after the close of the pleadings or the delivery of the issue and before the motion for directions without the leave of a judge other than an application for an injunction, or for attachment or for a receiver.

(4) The motion for directions may be made by a defendant at any time after the delivery of the statement of defence or issue and before notice of such motion has been given by the plaintiff. [E. 336.]

Subsequent applications

226. Upon the hearing of the motion any party who has been served with notice thereof shall, so far as practicable, apply for any order or directions as to any interlocutory matter or thing in the action which he may desire; and any application by any party which might have been so made shall, if granted on any subsequent application, be granted at the cost of the party applying therefor unless otherwise ordered by the court or a judge. [E. 338 & 340.]

Affidavits, when used

227. No affidavit shall be used on the hearing of the motion except by leave of a judge. [E. 337.]

Matters dealt with

228. Upon the hearing of the motion the judge shall as far as practicable make such order as may be just and necessary with respect to all the proceedings to be taken in the action and as to the costs thereof, and more particularly with reference to the following matters: Security for the claim or part thereof or for costs, pleadings, particulars, admissions, discovery or inspection of documents, inspection of real or personal property, examinations for discovery, commissions, examination of witnesses, time, place and mode of trial, issues to which the evidence at the trial is to be directed. [E. 336 A.]

Power of judge

229. The judge shall have power having regard to the statements made by the parties or their solicitors upon the hearing of the motion:

(*a*) To give such judgment, final or interlocutory, and dispose of all or part of the matters in dispute as may seem just, upon such terms as to execution or otherwise as he shall see fit;

(*b*) To direct that any fact may be proved, either for the purposes of the motion or at the trial, by affidavit, by statement upon oath of information and belief, or other secondary evidence, by the production of books of account or other books or documents or copies thereof or otherwise as he may see fit;

(*c*) To settle issues, take or direct the taking of accounts or make or direct the making of inquiries;

(*d*) To direct any party to admit for the purpose of the action any fact which he thinks should be admitted upon such terms as to witnesses who would, in the absence of such admission, require to be called by any party, being produced at the trial by such party for cross-examination or otherwise as he may see fit;

(*e*) To exercise such powers as may be necessary to ascertain the real questions in issue, to expedite their determination and to do complete justice between the parties. [E. 341.]

Failure of plaintiff to apply for directions

230. If the plaintiff or one of the plaintiffs, if more than one, do not within fourteen days after the pleadings are closed apply for directions, the defendant or any defendant shall be at liberty to apply for an order to dismiss the action and upon such application the judge may either dismiss the action on such terms as may be just or may deal with such application in all respects as if it were a motion for directions. [E. 342.]

Subsequent applications

231. Any of the parties may apply subsequently to the original motion for directions as to any interlocutory matter or thing on two clear days' notice to the other party stating the grounds of the application and upon such subsequent application the judge shall have the same powers and jurisdiction as upon the original motion. [E. 339.]

Noncompliance with directions

232. If any party fails to comply with any order made on motion for directions he shall be liable, if a plaintiff, to have his action dismissed, and, if a defendant, to have his defence struck out.

CONSOLIDATION OF ACTIONS.

Consolidations of actions

233. When there are actions or matters involving common facts or circumstances or between common parties, a judge may, whenever it appears just and convenient so to do, order that such actions or matters be consilodated or that some one or more of them be stayed pending the trial of the other or others, or that some or all of them or of the issues therein be tried together.

EXAMINATION FOR DISCOVERY.

Examination for discovery

234. A judge may order any party to an action, or any person who is or has been employed by any party to an action and who appears to have some knowledge touching the questions in issue acquired by virtue of such employment, whether such party or person be within or without the jurisdiction, to be orally examined before the trial touching the matter in question by any person adverse in interest. [201; E. 343; O. 439.]

235. A member of a firm which is a party and a person for whose benefit an action is prosecuted or defended shall be regarded as a party for the purposes of examination. [202; O. 440.] Party benefited and member of firm

236. Where an action is brought by an assignee of a *chose in action* the court or a judge may order the assignor to be examined for discovery. [O. 441.] Assignor of *chose in action* examinable

237. The party or person entitled to examine another party or person may procure an appointment for such examination from the clerk of the court in whose office the proceedings are being carried on or from such other person as the judge may appoint; and the party or person to be examined upon being served with a copy of the appointment and upon payment of the proper conduct money shall attend thereon and submit to examination; and the party examining shall serve a copy of the appointment upon the solicitor in the cause, at least forty-eight hours before the examination. [204 & 205; O. 443.] Subpoena and appointment

(*a*) Unless a judge otherwise directs, service of an appointment upon the solicitor of the party to be examined shall be sufficient in lieu of personal service of appointment upon such party if made twenty days before the day appointed for the examination. Service on solicitor for client

(*b*) If any party attending for examination pursuant to an appointment so served demand his conduct money, it shall be paid to him forthwith upon such demand by the solicitor by whom the appointment was served. [O. 447.] Demand of conduct money

238. Unless a judge otherwise directs the party or person to be examined shall if so required by notice produce at the examination all books, papers and documents which he could be required to produce at the trial. [207; O. 448.] Production of papers

239. If a witness produce books, papers or documents and refuses for good cause, to be stated in his deposition, to part with the original, then a copy or extract certified by the examiner or commissioner to be a true and correct copy or extract shall be annexed to the deposition of the witness. [208; O. 508.] Copies as evidence

240. Anyone examined orally under these Rules may give further evidence or be further examined in explanation of any matter in respect of which he has already been examined. [209 & 211; O. 451.] Mode of conducting examination

241. Anyone who admits upon his examination that he has in his custody or power any book, paper, or document relating to the matters in question in the cause not privileged or protected from production, shall produce the same for the inspection of the party examining him upon the order of a judge or upon the direction of the officer before whom he is examined within a reasonable time to be fixed by the order or direction. [212; O. 452.] Person admitting possession of documents may be ordered to produce

242. The direction of the officer shall be subject to appeal; and he shall upon request certify under his hand the question raised and the direction made thereon. [213; O. 453.] Officer's order for production appealable

Penalty for refusal to attend or answer, etc.

243. Anyone refusing or neglecting to attend at the time and place appointed for his examination or refusing to be sworn or to answer any question properly put to him or to produce any document which he is bound to produce, shall be deemed guilty of a contempt of court and proceedings may be had against him by attachment. He shall also be liable, if a plaintiff, to have his action dismissed, and, if a defendant, to have his defence, if any, struck out.

(2) If the person so refusing or neglecting is an officer of a corporation, a party to action or one who is employed by a party, the party, if a plaintiff, shall be liable to have his action dismissed, and, if a defendant, to have his defence struck out, unless the judge is satisfied that the refusal or neglect is one for which the party ought not to be held responsible. [214; O. 454.]

Depositions, how to be taken down

244. Unless taken in shorthand the depositions on an oral examination as aforesaid may be taken down in writing by the examiner in the form of a narrative expressed in the first person and when completed shall be read over to the person examined and shall be signed by him in the presence of the parties or such of them as may think fit to attend and shall be certified by the examiner.

Signing depositions

(2) When anyone examined refuses or is unable to sign the depositions, the examiner shall so certify.

Taking down questions

(3) The examiner may upon any examination under this Rule in his discretion take down any particular question or answer and he shall upon request note upon the depositions any questions objected to and the ground of the objection. [216, 217 & 218; E. 494; O. 456 (1), (2) & (3).]

Examination may be taken in shorthand

245. In case of an examination before, or otherwise than at, the trial, if the examining party desires to have such examination taken in shorthand, he shall unless otherwise ordered by a judge be entitled to have it so taken by the examiner or by a shorthand writer approved and duly sworn by such examiner. [219; O. 457.]

Examinations, how to be taken in shorthand

246. When taken in shorthand the examination shall be taken down by question and answer with a note of any refusal to answer and the reason, if any, therefor; and unless otherwise ordered or unless any party so desires, it shall not be necessary for the depositions to be read over to or signed by the person examined.

Certified copy to be deemed to be original depositions

(2) The depositions so taken, when extended and certified by the person taking the same as correct, and (if such person be not the examiner) also signed by the examiner, shall be deemed to be the original depositions. [220; O. 458 (1); 221; O. 458 (2).]

Objection to questions

247. The validity of any objection to any question shall be decided by the court or a judge; and the costs of and occasioned by such objection shall be in the discretion of the court or judge and may be ordered to be paid by the person under examination. [215; E. 496; O. 455.]

Depositions to be returned to court

248. The depositions shall at the request of any party interested and upon payment of the examiner's fees be filed in the office of the court in which the proceedings are being carried on and the depositions, signed and certified as hereinbefore provided,

when duly filed or a copy thereof certified under the hand of the proper officer shall without proof of the signature be received and read in evidence, saving all just exceptions. [222; E. 498; O. 459.]

Special report of examiners to the court

249. The person taking an examination may and, if need be, shall make a special report to the court, in which proceedings are pending, touching such examination and the conduct or absence of any person, and the court may direct such proceedings and make such order upon such report as justice may require and as may be directed and made in any case of a contempt of court. [223; E. 499; O. 460.]

Depositions, use of, as evidence

250. Any party to an action or issue may at the trial use in evidence as against any opposite party any part of the examination of such opposite party, or in case such opposite party is a corporation, of the examination of any officer thereof selected to submit to an examination to be so used.

Officer of corporation

(2) Such selection shall be made by the corporation, or by a judge if the corporation refuses or fails to select any or what the judge considers the proper officer or officers having regard to the questions involved.

(3) If it be made to appear at or before the trial that any party has been unable after due diligence to obtain the attendance at the trial of any person examined by him for discovery, or if for any other reason it appears to be just and convenient, the court or a judge may permit such party to use in evidence the whole or any part of the examination of such person.

Part of examination used

(4) If part only of any examination be used, the judge may at the request of any party against whom it is so used direct that any other part of the examination be also used, if it is so connected with the part so used that such first mentioned part ought not to be used without such other part. [224; E. 363; O. 461.]

MEDICAL EXAMINATION.

Medical examination in action in respect of bodily injury

251. In any action brought to recover damages or other compensation for or in respect of bodily injury sustained by any person the court or a judge or any person who by consent of the parties, or otherwise, has power to fix the amount of such damages or compensation, may order that the person in respect of whose injuries, damages or compensation are or is sought shall submit to be examined by a duly qualified medical practitioner, who is not a witness on either side, and may make such order respecting such examination and the cost thereof as he may think fit. The medical practitioner named in such order shall be selected by the court or judge or other person making the order and may afterwards be a witness on the trial, unless the judge before whom the action is tried otherwise directs. [O. 462.]

STRIKING OUT PLEADINGS, ETC.

Expunging scandalous matter

252. If upon the hearing of a cause or matter, the court is of opinion that any pleading, petition or affidavit or any part of a pleading, petition or affidavit, is scandalous, the court may order

the pleading, petition or affidavit to be taken off the file or may direct the scandalous matter to be expunged and may give such directions as to costs as may seem just. [E. 531; O. 296.]

253. A motion to have any pleading, petition or affidavit taken off the files for scandal or to have the scandalous matter expunged may be made to a judge at any time before or at the hearing of the cause or matter. [O. 297.]

254. A judge may at any stage of the proceedings order to be struck out or amended any matter in the pleadings respectively which may be scandalous or may tend to prejudice, embarrass or delay the fair trial of the action. [127; E. 223; O. 298.]

Striking out pleadings, frivolous or disclosing no cause of action

255. The court or judge may order any pleading to be struck out on the ground that it discloses no reasonable cause of action or answer, or that it is frivolous or vexatious, and may order the action to be stayed or judgment to be entered as may be just. [157; E. 284; O. 261.]

Further and better statement and particulars may be ordered

256. A further and better statement of the nature of the claim or defence or further and better particulars of any matter stated in any pleading, notice or written proceeding requiring particulars, may in all cases be ordered upon such terms as to costs and otherwise as may seem just. Such statement or particulars shall be filed and attached to the pleading, notice, or writing to which the same refers or refer (as the case may be). [112; E. 203; O. 299.]

AMENDMENT OF PLEADINGS.

Application for leave to amend

257. A judge may at any stage of the proceedings allow either party to alter or amend his pleadings or other proceedings in such manner and on such terms as may be necessary for the purpose of determining the real question in controversy between the parties. [178; E. 305; O. 304.]

Amendment of defects or errors

258. A judge may at any time, and on such terms as to costs or otherwise as he may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings. [189; E. 316; O. 312.]

Amendment by plaintiff without leave

259. The plaintiff may without any leave amend his statement of claim once at any time before the expiration of the time limited for reply and before replying. [179; E. 310; O. 300.]

Amendment of counterclaim

260. A defendant who has set up any counterclaim may without any leave amend such counterclaim at any time before the expiration of the time allowed him for answering the defence to the counterclaim and before such answer. [180; E. 307.]

Disallowance of amendment

261. Where any party has amended his pleading under either of the last two preceding Rules, the opposite party may within eight days after the delivery to him of the amended pleading apply to a judge to disallow the amendment or any part thereof

and the judge may, if satisfied that the justice of the case requires it, disallow the same or allow it subject to such terms as to costs or otherwise as may be just. [181; E. 308; O. 301.]

Pleading to or amendment by the other party after amendment

262. Where any party has amended his pleading under Rule 259 or Rule 260, the opposite party shall plead to the amended pleading or amend his pleading within eight days from the delivery of the amendment; and in case the opposite party has pleaded before the delivery of the amendment and does not plead again or amend within the time above mentioned he shall be deemed to rely upon his original pleading in answer to such amendment. [182; E. 309; O. 302 (cf).]

Failure to amend within time

263. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order or, if no time is thereby limited, then within fourteen days from the date of the order, such order to amend shall on the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, become inoperative unless the time is extended by the court or a judge. [184; E. 311; O. 305.]

Amendment by consent

264. Any party may amend his pleadings at any time without order on filing the written consent of the opposite party or his solicitor. [O. 303.]

Method of making alterations

265. A pleading may be amended by written alterations in the copies filed and served or by additions on paper to be interleaved therewith if necessary unless the amendments require the insertion of more than 200 words in any one place or are so numerous or of such a nature that making them in the copies filed and served would render the same difficult or inconvenient to read; in either of which cases the amendments shall be made by delivering a reprint or fresh copy of the pleadings as amended. [185; E. 312; O. 306.]

Marking of amended pleadings

266. Where a pleading is amended it shall be marked by the clerk of the court with the date upon which such amendment is made and of the order or consent, if any, under which the same is so amended, in the manner following:

"Amended.....day of..... (under order [*or* consent] dated.....day of.....)."

(2) The amendment shall be written or underlined in ink of a different colour from that used in the original pleading. [186; E. 313; O. 307.]

Delivery of amended pleadings

267. The amended pleading shall be delivered within the time allowed for amending the same. [187; E. 314; O. 308.]

Amendment at trial

268. Where an amendment is directed or allowed at the trial it shall not be necessary to issue an order therefor. The amendment unless otherwise directed, shall be made forthwith in the record. [O. 314.]

No physical alteration of record, etc.

269. Where an amendment of any record of the court or document filed, other than a pleading, is directed, no physical

alteration of the record or document shall be made, but a note shall be made in the margin or other convenient place of the amendment directed. [O. 315.]

Correction of clerical mistakes in judgments, etc.

270. Clerical mistakes in judgments or orders or errors arising therein from any accident, slip or omission may at any time be corrected by the court or a judge on motion. [188; E. 315; O. 640.]

Costs of amendment

271. The costs, if any, occasioned by any amendment shall be borne by the party making the same unless the court or a judge shall otherwise order. [190; E. 317.]

Defect of form not to defeat proceedings

272. No pleading or other proceeding shall be defeated by any technical objection on the ground of an alleged defect of form. [126; E. 222; O. 309.]

Effect of noncompliance with Rules

273. Unless the court or a judge so directs, noncompliance with the Rules shall not render any act or proceeding void, but the same may be set aside either wholly or in part as irregular or amended or otherwise dealt with as to the court or judge may seem just. [538; E. 1037; O. 310.]

Time for proceeding to set aside

274. An application to set aside process or proceedings for irregularity shall be made within a reasonable time and shall not be allowed if the party applying has taken a fresh step after knowledge of the irregularity. [539; E. 1038; O. 311.]

LEAVE TO SIGN JUDGMENT AND DEFEND.

Signing final judgment for liquidated demand

275. When a statement of claim includes a claim for a debt or liquidated demand and any defendant has delivered a defence, the plaintiff may on affidavit made by himself, or any other person who can swear positively to the facts, verifying the cause of action in respect of the debt or liquidated demand and the amount claimed and stating that in his belief there is no defence thereto, apply to a judge for leave to enter final judgment for the amount so verified together with interest, if any, and costs. [103 pt.; E. 115 pt.; O. 603 pt.]

276. Upon the hearing of the motion, unless the defendant by affidavit or his *viva voce* evidence or otherwise shall satisfy the judge that he has a good defence to the action on the merits or disclose such facts as may be deemed sufficient to entitle him to defend or shall bring into court the amount verified, the judge may direct that judgment be entered accordingly; but such judgment shall be without prejudice to the plaintiff's right to proceed against any other defendant or in respect of any other cause of action included in the statement of claim. [103 & 105 pt.; E. 115 & 117 pt.; O. 603 pt.]

(*a*) If the defendant shows cause by affidavit, the affidavit shall state whether the defence alleged goes to the whole or part only and, if so, to what part of the plaintiff's claim.

(*b*) The judge may, if he thinks fit, order the defendant or, in the case of a corporation, any present or past officer thereof

to attend and be examined upon oath or to produce any books or documents or copies thereof or extracts therefrom. [105 pt.; E. 117 pt.]

Defence as to part

277. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of his claim is admitted, the judge may, if the circumstances make it convenient, direct that the plaintiff have judgment forthwith for or in respect of such part of his claim as the defence does not apply to or as is admitted, subject to such terms, if any, as to suspending execution or the payment of the amount levied or any part thereof into court by the sheriff, the taxation of costs or otherwise as the judge may think fit; and the defendant may be allowed to defend as to the residue of the plaintiff's claim. [106; E. 118; O. 604.]

Judgment against one defendant not to prejudice other defendants

278. If it appears to the judge that any defendant has a good defence to or ought to be permitted to defend the action and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend; and the judge may, if the circumstances make it convenient, direct that the plaintiff have judgment against the latter and the plaintiff may enforce such judgment without prejudice to his right to proceed with his action against the former. [107; E. 119; O. 605.]

Reference, where defence only as to amount

279. If it appears that the defence disclosed is substantially only as to the amount recoverable, the judge may make an order directing a reference to ascertain the amount and may reserve further directions and questions of cost for the consideration of a judge. [O. 607.]

Leave to defend, absolute or conditional

280. Leave to defend may be given unconditionally or subject to such terms as to giving security or time or mode of trial or otherwise as the judge may think fit. [108; E. 120; O. 606.]

281. Where leave, whether conditional or unconditional, is given to defend, the judge shall have power to give all such directions as to the further conduct of the action as might be given on a motion for directions and may order the action to be forthwith set down for trial. [E. 120 (b) pt.]

Costs of application for leave to defend

282. The cost of the application if not dealt with by the judge on the hearing of the application or if referred to the judge at the trial and no trial afterwards takes place or no order as to costs is made, shall be costs in the cause. [E. 120 (c).]

Motion for judgment by leave after delivery of statement of claim

283. Where at any time after the statement of claim has been delivered it is made to appear to a judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for judgment to be forthwith served, the judge may order the same accordingly and, when such permission is granted, the judge is to give such directions as to the service of the notice of motion and affidavits as may be expedient.

(2) Upon the hearing of such motion the judge instead of either granting or refusing the application may give such directions

for the examination of either parties or witnesses or for the making of further enquiries or with respect to the further prosecution of the suit as the circumstances of the case may require and upon such terms as to costs as the judge may think right. [326; O. 608.]

Summary judgment upon admissions in pleadings, etc.

284. A party may at any stage of a cause or matter, without waiting for the determination of any other question between the parties, apply to a judge for such judgment or order as he may be entitled to—

(*a*) Where admissions of fact have been made on the pleadings or otherwise; or,

(*b*) Where the only evidence consists of documents and such affidavits as are necessary or sufficient to prove the execution or identity of such documents;

and the judge may on such application make such order or give such judgment as he may think just. [220; E 376; O. 616.]

Application turned into motion for judgment on hearing

285. Where it is made to appear on the hearing of any application that it will be conducive to the ends of justice to permit it, the judge may direct the application to be turned into a motion for judgment or a hearing of the cause or matter; and may make such order as to the time and manner of giving the evidence in the cause or matter and with respect to the further prosecution thereof as the circumstances of the case may require; and upon the hearing it shall be discretionary with the judge to either pronounce a judgment or make such order as may seem just. [325; O. 611.]

Action involving account

286. In an action for an account or in any action where it appears that the matters in question involve the taking of an account, the plaintiff may move for such judgment as he may be entitled to and the judge upon such motion may direct the taking of an account unless he is of opinion that there is some preliminary question to be tried which cannot conveniently be determined upon such action. [234 pt.; E. 121; O. 645 pt.]

Judgment where defence filed for delay only

287. In any action in which a defence has been filed the plaintiff may on affidavit made by himself or any other person who can swear positively to the facts verifying the cause and stating that in his belief the defendant has no defence to the action on the merits and that the defence has been filed for the purpose of delay only, move for such judgment as he may be entitled to, and unless the defendant by affidavit or otherwise shall satisfy the judge that he has a good defence or counterclaim on the merits or shall disclose such facts as may be deemed sufficient to entitle him to defend or counterclaim, the judge may direct such judgment to be entered for the plaintiff as he may be entitled to.

Judgment after trial of issues

288. Where issues have been ordered to be tried or issues or questions or fact to be determined in any manner, the plaintiff may give notice of motion for judgment as soon as such issues or questions have been determined. If he does not give such notice to the other parties within ten days after his right so to

do has arisen then, after the expiration of such ten days, any defendant may move for judgment on notice to the other parties. [321; E. 565; O. 613.]

Judgment after trial of some issues

289. Where issues have been ordered to be tried or issues or questions of fact to be determined in any manner, and some only of such issues or questions of fact have been tried or determined any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary or renders it desirable that the trial or determination thereof should be postponed, may apply to a judge for leave to serve a notice of motion for judgment without waiting for such trial or determination; and the judge may, if satisfied of the expediency thereof, give such leave upon such terms, if any, as shall appear just and give any directions which may appear desirable as to postponing the trial of the other issues of fact. [332; E. 566; O. 614.]

Motion for judgment by way of further consideration

290. When in any action accounts, inquiries or issues have been directed, either party may at any time after such questions have been determined move for judgment by way of further consideration of the action.

How judgment obtained

291. Except when it is provided that judgment may be obtained in any other manner, judgment may be obtained by motion for judgment. [317; E. 559; O. 609.]

On motion for judgment final judgment may be given by court

292. Upon a motion for judgment the court may draw all inferences of fact not inconsistent with the finding of the jury and, if satisfied that it has before it all the materials necessary for finally determining the questions in dispute or any of them, or for awarding any relief sought, may give judgment accordingly, or may, if it shall be of opinion that it has not sufficient material before it to enable it to give judgment, direct the motion to stand over for further consideration and direct such issues or questions to be tried or determined and such accounts and inquiries to be taken and made as it may think fit. [324; E. 568; O. 615.]

INQUIRIES AND ACCOUNTS.

Inquiries or accounts at any stage

293. The court or a judge may at any stage of the proceedings in a cause or matter direct any necessary inquiries or accounts to be made or taken notwithstanding that it may appear that there is some special or further relief sought for or some special issue to be tried as to which it may be proper that the cause or matter should proceed in the ordinary manner. [233; E. 381; O. 646.]

Direction as to mode of taking accounts and as to books of account being *prima facie* evidence

294. The court or judge may either by the judgment or order directing an account to be taken or by any subsequent order give special directions with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima facie* evidence

of the truth of the matters therein contained with liberty to the parties interested to take such objections thereto as they may be advised. [235; E. 382; O. 674.]

Form of accounts

295. Where any account is directed to be taken, the accounting party, unless the court or judge shall otherwise direct, shall make out his account and verify the same by affidavit. The items on each side of the account shall be numbered consecutively and the account shall be referred to in the affidavit as an exhibit and be filed with the clerk or other referee as the case may be. [236; E. 383; O. 673.]

Production of vouchers

296. Upon the taking of any account the court or a judge may direct that the vouchers shall be produced at the office of the solicitor of the accounting party or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the judge in chambers. [237; E. 383 (a).]

Notice of particulars of charge

297. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received shall give notice thereof to the accounting party, stating, so far as he is able, the amount sought to be charged and the particulars thereof in a short or succinct manner. [238; E. 384; O. 680.]

Inquiry as to outstanding estate of deceased persons

298. Every judgment or order for a general account of the estate of a deceased person shall contain a direction for an inquiry as to what parts, if any, of such estate are outstanding or undisposed of, unless the court or judge shall otherwise direct. [239; E. 385.]

Numbering of directions

299. Where by any judgment or order whether made in court or in chambers any accounts are directed to be taken or inquiries to be made, each such direction shall be numbered so that, as far as may be, each distinct account and inquiry may be designated by a number. [240; E. 386.]

Just allowances

300. In taking any account directed by any judgment or order all just allowances shall be made without any directions for that purpose. [241; E. 387; O. 667 (e).]

Delay in accounts to be explained

301. If it shall appear to the court or a judge that there is any undue delay in the prosecution of any accounts or inquiries or in any other proceedings under any judgment or order, the court or judge may require the party having the conduct of the proceedings or any other party to explain the delay and may thereupon make such order with regard to expediting the proceedings or the conduct thereof or the stay thereof, and as to the costs of the proceedings as the circumstances of the case may require; and for the purposes aforesaid any party may be directed to summon the persons whose attendance is required and to conduct any proceedings and carry out any directions which may be given. [242; E. 388; 794-797.]

Inquiry before referee

302. Where any cause or matter or any question in any cause or matter is referred to a referee, he may subject to the order of the court or a judge hold the inquiry at or adjourn it to any

place which he may deem most convenient and have any inspection or view which he may deem expedient for the better disposal of the matters before him. [E. 472 pt.; O. 649.]

Conduct of inquiry before referee

303. Subject to any order to be made by the court or judge ordering the same, evidence shall be taken at any inquiry before a referee and the attendance of witnesses may be enforced and in other respects the proceedings shall be conducted in the same manner as nearly as circumstances will admit as trials before a judge. [E. 473; O. 484 & 650.]

Referee not to commit, attach or direct entry of judgment

304. Nothing in these Rules contained shall authorize any referee to commit any person to prison or to enforce any order by attachment or otherwise, or to direct judgment to be entered unless expressly authorized so to do by the order of reference. [E. 475.]

Submission of questions by referee

305. The referee may, before the conclusion of any inquiry before him, or by his report under the reference made to him, submit any question arising therein for the decision of the court or a judge, or state any facts specially from which the court or judge shall have power to draw inferences; and the court or judge shall have power to require any explanations or reasons from the referee and to remit the cause or matter or any part thereof for further consideration to the same or any other referee; or the court or judge may decide the question referred to any referee on the evidence taken before him either with or without additional evidence as the court may decide. [E. 476; O. 651 & 652.]

Decision upon or remission of matter by judge

Notice of referee's report

306. Whenever a report shall be made by a referee he shall forthwith file it in the office in which the proceedings are pending and on the same day cause notice of the filing thereof to be given to all the parties to the reference before him by prepaid post letter directed to the address for service of each party, who shall in due course of post be deemed to have had notice of such report. [E. 477.]

Adoption of variation of report of referee where further consideration of cause has been adjourned

307. Where the report of the referee has been made in a cause or matter, the further consideration of which has been adjourned, any party may on the hearing of such further consideration, without notice of motion, apply to the court or judge to adopt the report, or without leave of the court or a judge give notice of motion to come on with the further consideration to vary the report or to remit the cause or matter or any part thereof for futher consideration to the same or any other referee. [E. 478.]

Same where further consideration of cause not adjourned

308. Where the report of the referee has been made in a cause or matter the further consideration of which has not been adjourned, any party may by notice of motion apply to the court to adopt and carry into effect the report of the referee or vary the report, or to remit the cause or matter or any part thereof for further consideration to the same or any other referee. [E. 479.]

Costs in discretion of referee

309. Where the whole of any cause or matter is referred to a referee under an order of court, he may subject to any directions in the order exercise the same discretion as to costs as the court or a judge could have exercised. [E. 479 (b).]

Unpaid fees may be ordered to be paid by solicitor

310. In any proceedings before a referee in which the party by whom the fees prescribed by the Rules as to court fees are payable is represented by a solicitor, if the fees or any part of the fees payable under the said Rules are not paid as therein prescribed, the court or a judge may upon the application of and upon a report signed by the referee stating the amount of the unpaid fees order the said solicitor of the said party personally to pay the said amount in the manner prescribed by the said Rules and to pay the costs of the application. [E. 479 (d).]

Ascertainment of damages where a matter of calculation

311. In every action or proceeding in the court in which it shall appear to the court or a judge that the amount of damages sought to be recovered is substantially a matter of calculation, the court or judge may direct that the amount for which final judgment is to be entered shall be ascertained by a referee; and the attendance of witnesses and the production of documents before such referee may be compelled by subpoena and he may adjourn the inquiry from time to time and shall endorse upon the order of reference the amount of damages found by him and shall deliver the order with such endorsement to the person entitled to the damages and such and the like proceeding may thereupon be had as to taxation of costs, entering judgment and otherwise as upon the direction for judgment by a judge. [243; E. 481.]

APPEALS.

Appeal from officers in chambers

312. A person affected by a judgment, order or decision of a local judge in chambers or a master or the certificate of a referee may appeal therefrom to a judge of the Supreme Court. [O. 767 (1).]

313. An appeal may be made notwithstanding that the judgment, order, decision or certificate was in respect of a proceeding or matter as to which the local judge had jurisdiction only by consent.

(2) The appeal shall be by motion on notice setting out the grounds of appeal, served within four days and returnable within fourteen days after judgment is pronounced, order made or decision or certificate given.

(3) When the judgment, order, decision or certificate is pronounced, made or given in vacation or within six days preceding vacation affected thereby may appeal therefrom during vacation by leave of a judge or may appeal after vacation in the same manner and within the same time as if the judgment, order, decision or certificate had been pronounced, made or given on the first day after such vacation. [O. 767 (2), (3) & (6).]

APPEALS FROM TAXING OFFICER.

Review of taxation

314. A party dissatisfied with the certificate of a taxing officer may appeal to a judge to review the taxation as to any item or part of an item which has been objected to as provided for

by the Rules respecting taxation, but the certificate of the taxing officer shall be final and conclusive as to all matters which have not been objected to as provided by the said Rules. [528; O. 773 & 774.]

315. The appeal shall be heard by the judge upon the evidence which was before the taxing officer, unless otherwise ordered. [529; O. 776.] Evidence thereon

APPEALS TO APPELLATE DIVISION.

316. In the following Rules relating to appeals unless the context otherwise requires the expression "appeal" shall include motions for a new trial or to set aside a finding or verdict of a judge or jury, and the expression "judge" shall not include a local judge or master in chambers; and the expression "court" shall mean the appellate division of the Supreme Court. Definition of "Appeal" and "Court"

317. No judgment given or order made by the court or a judge by the consent of parties or as to costs only which by law are left to the discretion of the court or judge shall be subject to any appeal, except by leave of the court or judge giving the judgment or making the order. [500; E. 49; O. 572.] Appeal from consent orders and discretionary cost orders

318. Except as otherwise provided an appeal shall lie to the court from the whole or any part of any judgment, order, direction or finding of a judge or a local judge sitting in court or the verdict or finding of a jury or from the judgment, order or direction of a judge sitting in chambers. [318, 319 & 320; E. 561, 562: O. 777.] Appeal from judge in court or chambers or jury

319. Where the matter in controversy in the appeal can be estimated in money and does not exceed the sum of $200, exclusive of costs, no appeal shall lie without the leave of the court or a judge thereof. Appeal where matter does not exceed $200

320. The appeal in the case of the refusal of an *ex parte* application, when the refusal is for any other reason than the want of notice, shall be by way of renewal of the application to the court. [E. 874.] Appeal from refusal of *ex parte* application

321. Notice of appeal shall be given within twenty days in the case of a judgment after the formal judgment or order has been signed and entered, in the case of an order, after the order has been signed and issued, in the case case of a direction, after the judgment or order founded thereon has been signed and entered or issued, in the case of a finding or verdict, after the judgment or order founded thereon has been signed and entered or issued. [504; E. 867, 889 (e) pt., 889 (g).] Time for notice of appeal

322. An appeal from or a motion to set aside or remit an award shall be to the court upon notice given unless otherwise provided within twenty days after the award has been made and published to the parties. [E. 974.] Time for application to set aside award

323. The notice of appeal shall state whether the whole or part only of the judgment, order, direction, finding, verdict Notice to state part appealed from and grounds

or award is complained of and, in the latter case, what part thereof and shall specify the grounds of appeal. [503; E. 865 pt. 889 (e) pt.]

Amendment of notice of appeal

324. The notice of appeal may be amended at any time by leave of the court or a judge on such terms as may be deemed just. [505; E. 889 (k).]

Service of notice of appeal

325. The notice of appeal shall be filed with the clerk in whose office the proceedings have been carried on and shall be served upon all parties directly affected by the appeal and it shall not be necessary to serve parties not so affected; but the court may direct notice of the appeal to be served on all or any parties to the action or other proceeding or upon any person not a party and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just and may give such judgment or make such order as might have been given or made if the persons served with such notice had originally been parties. [506; E. 866; O. 815.]

Amendments by court

Reception of further evidence

Further evidence on appeal from judgment

Power to draw inferences

Costs of appeal

326. The court shall have full discretionary power to direct any amendment of any proceeding before it and to receive further evidence upon questions of fact, such evidence to be either by oral examination in court, by affidavit or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory applications or, in any case, as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or hearing of any cause or matter upon the merits such further evidence (save as to matters subsequent, as aforesaid) shall be admitted on special grounds only and not without special leave of the court. The court shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been made and to make such further or other order as the case may require. The powers aforesaid may be exercised by the said court notwithstanding that the notice of appeal may be that part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The court shall have power to make such order as to the whole or any part of the costs of the appeal as may be just and in the event of the court not making any order as to costs by reason of being equally divided the costs shall follow the event of the appeal. [507; E. 868; O. 498 & 817.]

Money to bear interest from date of judgment reversed

327. Where on appeal the judgment of the court below is reversed and the judgment which is directed to be entered is one for a sum of money, such judgment shall bear interest from the date of the judgment reversed.

Power to order new trial

328. If upon the hearing of an appeal it shall appear to the court that a new trial ought to be had, the court may, if it shall think fit, order that the verdict and judgment be set aside and a new trial had. [E. 869.]

Restrictions on new trials

329. A new trial shall not be granted on the ground of misdirection or of the improper admission or rejection of evidence or because the verdict of the jury was not taken upon a question which the judge at the trial was not asked to leave to them, unless in the opinion of the court to which application is made some substantial wrong or miscarriage has been thereby occasioned on the trial; and if it appears to such court that such wrong or miscarriage affects part only of the matter in controversy, or some or one only of the parties, the court may give final judgment as to part thereof, or some or one only of the parties and direct a new trial as to the other part only or as to the other party or parties. [508; E. 556, 889 (a); O. 785.]

New trial as to part

330. A new trial may be ordered on any question, whatever be the grounds for the new trial, without interfering with the finding or decision upon any other question. [509; E. 557; O. 786.]

Cross-appeal unnecessary. Notice of intention sufficient

331. It shall not under any circumstances be necessary for a respondent to give notice of motion by way of cross-appeal, but if a respondent intends upon the hearing of the appeal to contend that the decision of the court below should be varied, he shall within the time specified in the next Rule, or such time as may be prescribed by special order, give notice of such intention to any parties who may be affected by such contention. The omission to give such notice shall not diminish the powers conferred upon the court but may, in the discretion of the court, be ground for an adjournment of the appeal or for a special order as to costs. [E. 870; O. 813.]

Notice to be an eight days' notice

332. Subject to any special order which may be made notice by a respondent under the last preceding Rule shall be given at least eight days before the commencement of the sittings at which the appeal is to be entered for argument. [E. 871; O. 801.]

Interlocutory order not to prejudice appeal

333. No interlocutory order from which there has been no appeal shall operate so as to bar or prejudice the court from giving such decision upon the appeal as may be just. [512; E. 878.]

Appeal, how far. Stay of execution or proceedings

334. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from except so far as the court or judge or master appealed from, or any judge of the Supreme Court, may order; and no intermediate act or proceedings shall be invalidated except so far as the court appealed from may direct. [510 & 513; E. 755, 880, 889 (i); O. 827.]

No security for costs in appeals except under special circumstances

335. No security for costs shall be required in appeals unless by reason of special circumstances such security is ordered by a judge upon application to be made within fifteen days from the service of the notice of appeal. [502; E. 879 pt.; O. 825 & 826.]

Delivery of judgment

336. Any judge may deliver the judgment of the court when authorized to do so by the judges who heard the matter upon

which judgment is to be pronounced and may deliver the judgment of any other judge when authorized to do so by such other judge, notwithstanding the absence of the judge or judges aforesaid. Judgment may be delivered at any time, whether at a sitting or otherwise. [516.]

Time for entry for argument

337. A judgment, order, decision, finding or verdict appealed from shall stand as if no notice of appeal had been made or given if such appeal be not entered for argument at latest for the first sittings which commence after the expiration of six weeks after such notice or if the appeal of which such notice has been given be not made when the cause or matter is called, unless the court at or after the said sittings otherwise order. [515.]

Appeal books

338. Unless otherwise ordered by a judge, on every appeal the party appealing shall except in cases of appeals from orders made in proceedings in chambers, file a printed or typewritten copy of the pleadings, the judge's notes on trial or the evidence if taken in shorthand, the exhibits, the judgment delivered and the reasons therefor if any, and the notice of the motion intended to be made; and in cases of appeals from orders made in proceedings in chambers, the party appealing shall file a printed or typewritten copy of the documents, evidence and other material used before the judge, the order made and the reasons therefor, if any, the notice of appeal, and in either case, if necessary, a certificate by the judge of any statements or admissions made upon the trial or hearing which the judge is of the opinion are material to the appeal.

(2) In any case in which any portion of the evidence or any exhibit or any portion thereto is immaterial to the questions involved in the appeal, the same shall be omitted.

(3) When no notes of the judge or evidence can be procured the court may hear and determine the appeal upon any other evidence or statement of what occurred before such judge which the court may deem sufficient. [E. 883 (a) & (b); 889 (b).]

339. Such printed or typewritten copy shall be known as the appeal book. It shall be intituled as follows:

"In The Supreme Court of Alberta:

"Between A. B., Plaintiff (Respondent) and

C. D., Defendant (Appellant) (*or as the case may be*).

"Appeal from the judgment of His Honour Judge....., judge of the District Court of....., (*or as the case may be*)."

Unless otherwise ordered by a judge, it shall be filed at least ten days before the opening of the sittings whereat the appeal is to be heard, after having been certified by the clerk of the court in which the proceedings were had, under the seal of such court, in the following form:

"In the Supreme Court of Alberta, Judicial District of.....

"I, the undersigned clerk of the Supreme Court of Alberta in and for the Judicial District of....., hereby certify to the registrar of the said court that the foregoing document is a true copy of the statement of claim and defence and the pleadings in this cause, the judge's notes taken on the trial as furnished by the judge (*or* the evidence as furnished by the court stenographer, *as the case may be*) the judgment and the reasons given

therefor (*if any*) and notice of motion to the court filed with me; that the action was commenced in this court on..... (*or, in the case of appeals from judgments or orders made in interlocutory applications or proceedings at chambers,* that the foregoing document is a true copy of the documents, evidence and other material used before the judge on an application (*shortly stating the nature of the application*), of the judgment thereon and the reasons given therefor (*if any*), and of the notice of appeal filed with me); that this appeal book has been approved by the solicitors (*or* settled by a judge, *as the case may be*); that the appellant filed the said notice on....., A.D.,.....; (*and if security has been ordered add:* and that the security required by order herein of the.....day of....., A.D.,....., for such appeal has been deposited with me).

"Dated the.....day of....., A.D., ..." [O. 814.]

Submission of appeal book for approval

340. The appeal book in draft form or a list of its contents shall before printing or typewriting be submitted to the solicitor for the respondent, who shall if he approves thereof return the same within four days to the solicitor for the appellant marked "approved"; but if the said solicitors cannot agree on the contents of the appeal book the same shall be settled by a judge on application by the solicitor for the appellant upon notice to the opposite side. [O. 801.]

Format of appeal books

341. The appeal book if printed shall comply with the Rules prescribed by the Supreme Court of Canada or by the Judicial Committee of the Privy Council in case of appeals thereto, with the exception of the Rule relating to the title of the cause, and if typewritten the matter shall be double spaced and the appeal book shall otherwise comply with the same Rules except as to printing and as to the number of lines to each page.

(2) The table of contents shall be at the beginning of the book and the arrangement shall be in the order in which the material is printed and shall give the description and date of every document and the name of each witness. [O. 806 (1), 807, 809.]

342. The registrar shall not file the book or receive the copies thereof without the leave of a judge, if the preceding Rule has not been complied with. [O. 806 (2).]

Costs of slovenly appeal books disallowed

343. If the proof has not been carefully corrected the court may disallow the cost of printing or may decline to hear the appeal and make such order as to postponement and payment of costs as may seem just. And in cases where the appeal book is typewritten, if in the opinion of the court the writing is illegible or so slovenly or carelessly done as not to be easily legible or comprehended, the court may disallow the cost of such book or of any part thereof or may decline to hear the appeal and may make such order as to postponement and payment of costs as may seem just. [O. 806 (3).]

Deposit and delivery of appeal books

344. The appellant shall unless otherwise ordered by a judge at the time of filing the appeal book deposit ten copies thereof, if printed, or five copies, if typewritten, with the registrar for for the use of the judges. [O. 810.]

(2) The appellant shall at or before the time of filing deliver to the opposite party two copies of such appeal book, if printed, or one copy, if typewritten. [O. 810.]

FACTUMS.

Deposit of factums

345. The appellant and respondent shall, at least one day before the opening of the sittings at which the appeal is to be argued, deposit with the registrar or cause to be received by him by mail, a factum or statement of his points of argument before the court and five copies thereof for the use of the court.

Contents of factum

346. The factum shall contain a concise statement of the facts and of the points of law intended to be relied upon and of the arguments and authorities intended to be urged and cited at the hearing, arranged under appropriate heads.

Format of factum

347. The factum and copies may be printed or may be typewritten, so as to be plainly legible, on one side only of the paper, the size of the paper to be the same as that of the appeal book.

Factums not to be communicated

348. The factum and copies first received from either party by the registrar shall not be communicated to the other party until after receipt of the factum of such other party.

Factum to be in substantial accordance with rules

349. The registrar shall not accept any factum or copy which is not in substantial accordance with these Rules.

Delivery of factum

350. So soon as the factums of both parties have been received by the registrar, each party shall upon request deliver to the other party one copy of his factum.

Default as to factums

351. In default of compliance by either party with these Rules as to factums, the court may impose such terms upon the party in default as it may deem just. It shall be the duty of the registrar on the opening of the court to report to it such default.

Delivery of factums dispensed with

352. On application by either party to a judge an order may in his discretion be made dispensing with the delivery of factums by either or both parties or varying the time for such delivery to the registrar.

Factum not to contain unnecessary matter

353. A factum shall not contain irrelevant matter nor reproduce matter which appears in the appeal book where a reference to it will reasonably suffice.

Transmission of documents on file

354. In any case intended to be brought before the court in which any party interested considers it necessary that any original papers or documents on file in the clerk's office should be before the court, he may on *praecipe* and on payment of the necessary expenses require the clerk to transmit the same either by express or registered post to the registrar.

Appeals where to be entered

355. Unless otherwise ordered by a judge, appeals in or in relation to causes or matters pending in the Judicial Districts of Calgary, Macleod and Lethbridge shall be entered for hearing at a sitting of the court to be held at Calgary, and appeals in

or in relation to causes or matters pending in the Judicial Districts of Athabasca, Edmonton and Wetaskiwin shall be entered for hearing at a sitting of the court to be held at Edmonton, and notice of appeal shall be given in conformity with this Rule.

(2) Appeal books, factums, documents and papers requiring to be filed or deposited in connection with appeals and motions shall be filed or deposited with the registrar or person acting for the registrar at Edmonton when the appeal or motion is to be heard at Edmonton, and with the registrar or person acting for the registrar at Calgary when the appeal or motion is to be heard at Calgary.

Mode of entry

356. All appeals, matters referred to the court by a judge and special matters for argument before the court shall before the first day of each sittings be entered by the registrar on a list to be kept by him, and such entries in the case of appeals shall be made in the order in which the appeal books are filed, in other cases the entries shall be made in the order in which application is made to enter them; and the causes so entered shall be taken up after common motions in the order in which they have been so entered, unless otherwise ordered by the court.

Common motions

357. The first day of the sittings of the court shall be a common motions day; common motions may however be heard at any other time during the sittings by leave of the court.

Entry of order of Privy Council Supreme Court of Canada or Supreme Court of Alberta

358. Upon the filing of the order made upon an appeal to His Majesty in Council with the clerk of the court with whom the judgment or order appealed from was entered, the clerk shall thereupon cause the case to be entered in the proper book and all subsequent proceedings may be taken thereupon as if the decision had been given in the said court.

(2) When the judgment of the Supreme Court of Canada in appeal has been certified by the registrar of that court to the clerk of the court with whom the judgment or order appealed from was entered, the clerk shall thereupon cause the same to be entered in the proper book and all subsequent proceedings may be taken thereupon as if the decision had been given in the latter court.

(3) The decision of the appellate division of the Supreme Court of Alberta shall be certified by the registrar to the clerk of the court with whom the judgment or order appealed from was entered who shall thereupon cause the same to be entered in the proper judgment or order book and all subsequent proceedings may be taken thereupon as if the decision had been given by the judge appealed from. [O. 818.]

Appellant may discontinue

359. An appellant may discontinue his appeal by giving to the respondent a notice signed by the appellant or his solicitor stating that he has so discontinued it and thereupon the appeal shall be at an end and the respondent shall be entitled to his costs of the appeal. [O. 820.]

Effect of default in entering of appeal or giving security

360. If an appellant who has served a notice of appeal does not give security when ordered or does not enter the appeal, he shall be deemed to have abandoned the same and the respondent shall be entitled to the costs of the appeal. [O. 821.]

Costs on discontinuance or abandonment

361. The costs under the next two preceding Rules may be taxed without an order upon the production of the notice of discontinuance or of the notice of appeal with a certificate of the proper officer that security has been ordered but has not been given or that the appeal has not been entered; and if the costs are not paid within four days from taxation, the respondent may obtain on *praecipe* an order in the court appealed from for payment of the same on filing the certificate of taxation and an affidavit of nonpayment of the costs. [O. 882.]

Respondent may consent to renewal of of judgment, etc.

362. A respondent may consent to the reversal or variation of the judgment, order or proceeding appealed from by giving to the appellant a notice of such consent signed by himself or his solicitor and thereupon the court may pronounce judgment of reversal or variation accordingly. [O. 823.]

Certificate of case on appeal to Supreme Court

363. On an appeal to the Supreme Court of Canada a case shall not be certified unless the proof sheets of the reasons for judgment have been submitted to the judges for correction. [O. 824.]

DISCOVERY AND INSPECTION.

Order for discovery of documents

364. A judge at any time may order any party to a cause or matter to discover, by affidavit, on the documents which are or have been in his possession or power relating to any matter in question, in the said cause or matter or such of them as the judge shall deem proper. [191 & 193; E. 354 & 356; O. 463 & 464.]

Person benefited or assignor of *chose in action*

365. A person for whose benefit an action is prosecuted or defended or the assignor of a *chose in action* upon which the action is brought, shall be regarded as a party thereto for the purposes of discovery of documents. [O. 466.]

Affidavit on production, form of

366. The affidavit shall be made by the party or by such person or persons as shall be directed by the order and shall state:

(1) What documents relating to the matters in question are in the possession or power of the party.

(2) What documents, if any, the party objects to produce and the grounds for any such objection.

(3) What relevant documents the party has had in his possession, the time when and the manner in which they ceased to be in his possession or power, and their present whereabouts, so far as the deponent can state the same either from his own knowledge or upon information or belief.

(4) That the party has not and has never had any other relevant documents in his possession or power so far as the deponent knows or believes. [192; E. 355; O. 467 & 468.]

Filing of affidavit and service of copy

367. The affidavit shall be filed and a copy thereof served on the other parties within the time limited by the order for making discovery, if any, or in the event of no time being limited within ten days after demand.

Notice to produce documents referred to in pleadings, particulars or affidavit

368. A party shall be entitled to obtain the production for inspection of any documents referred to in the pleadings, particulars or affidavits of any other party and in his possession or

power by making a demand therefor and shall be entitled to take copies of such documents when so produced for inspection; provided that this shall not apply to any documents referred to in an affidavit of documents, the production of which is therein objected to. [194 pt.; E. 357 pt.; O. 469 (1).]

Notice to inspect

369. The party upon whom such demand is made shall within three days from the receipt thereof deliver to the party giving the same a notice stating a reasonable time within three days from the delivery thereof, at which the documents may be inspected at the office of his solicitor or, in the case of bankers' books or other books of account in constant use for the purpose of any trade or business, at their usual place of custody. [195; E. 359; O. 470.]

Order for inspection

370. If the party served with such demand omits to give such notice of a time for inspection or omits or objects to give such inspection, the party desiring it may apply to a judge for an order of inspection. [196; E. 360; O. 471.]

Reservation of question as to discovery

371. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, a judge, if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the action or that for any other reason it is desirable that any issue or question in dispute should be determined before deciding upon the right to discovery or inspection, may order that such issue or question be determined first and reserve the question as to the discovery or inspection. [197; E. 362; O. 472.]

Further and better affidavit

372. If it be made to appear to a judge that any document in the possession or power of a party has been omitted or that a claim of privilege has been improperly made in an affidavit of documents filed, he may order a further and better affidavit.

Inspection by judge

(2) For the purpose of determining whether a claim of privilege has been improperly made the judge may inspect the document in respect of which such claim of privilege is made. [E. 361A (2).]

Leave to use document omitted

373. Any party omitting to mention any documents in his affidavit of documents or any party not producing any document in compliance with a demand shall not afterwards be at liberty to use the document in evidence, unless he satisfies the court or judge that he had some sufficient cause for such omission or nonproduction. [194 pt.; E. 357 pt.; O. 469 (2).]

Consequences of disobeying an order for discovery

374. If a party fails to comply with any order for production or inspection of documents he shall be liable to attachment. He shall also be liable, if a plaintiff, to have his action dismissed and, if a defendant, to have his defence, if any, struck out. [198; E. 363; O. 473.]

Service of order on solicitor, when sufficient

375. Service of an order for production or inspection on the solicitor of a party shall be sufficient service on the party but on an application for attachment for disobedience to the order the party against whom the application is made may show in answer that he has had no notice or knowledge of the order. [199; E. 364; O. 475.]

Attachment of solicitor

376. A solicitor upon whom an order against any party for production or inspection is served who neglects without reasonable excuse to give notice thereof to his client shall be liable to an attachment. [200; E. 365; O. 476.]

Production of original record by order only

377. The production of an original record or of an original memorial from any public office of record shall be obtained only by the order of a judge. [O. 479.]

EVIDENCE.

Calling opposite party

378. Whenever a party desires to call the opposite party as a witness at the hearing or trial he may in case such party is within the jurisdiction give him or his solicitor at least eight days' notice of the intention to examine him as a witness in the cause, paying at the same time the proper amount of conduct money; and if such party does not attend on such notice such nonattendance shall be taken as an admission *pro confesso* against him in any such action, unless otherwise ordered by the court or a judge, and a general finding or judgment may be had against the party thereon or the proceedings in the action may be postponed on such terms as the court or judge sees fit to impose. [O. 481.]

Notice requiring attendance of witness

379. Whenever a party desires to call any person as a witness at the hearing or trial of any action or proceeding he may serve him with a notice requiring him to attend thereon, stating the time and place at which he is required to attend and the documents, if any, which he is required to produce, but such notice shall not be effective unless at the time of such service or prior thereto or within a reasonable time prior to the time at which he is required to attend he is paid the proper amount of conduct money.

Bench warrants

380. Upon proof to the satisfaction of the judge presiding at the sittings of any court of the service of a notice upon any witness who fails to attend or to remain in attendance in accordance with the requirements of the notice and that a sufficient sum for conduct money as a witness has been duly paid or tendered to him and that the presence of such witness is material, the judge may by his warrant directed to any sheriff or other officer of the court or to any constable, cause such witness to be apprehended and forthwith brought before him or any other judge who may thereafter preside at such sittings to give evidence; and, in order to secure his presence as a witness, such witness may be taken on such warrant before the presiding judge and detained in the custody of the person to whom the warrant is directed or otherwise as the presiding judge may order until his presence as such witness is required or, in the discretion of the said judge, he may be released on a recognizance (with or without sureties) conditioned for his appearance to give evidence.

(2) The warrant may be executed in any part of Alberta. [276; O. 482.]

Evidence on motion or petition

381. Evidence upon a motion or petition may be given by affidavit. [293; E. 521; O. 489.]

Cross-examination of deponent

382. A person who has made an affidavit to be used in any action or proceedings, including an affidavit of documents, may be cross-examined thereon. [282 & 293; E. 502 & 521; O. 490.]

(2) No order for such cross-examination shall be necessary if the person is within the jurisdiction of the court.

383. The person to be examined under the next preceding Rule may be required to attend in the same manner as a party being examined for discovery and his examination shall be subject to the same Rules, so far as they are applicable, as apply to the examination of a party for discovery. [282; E. 502; O. 492.]

Attendance of witnesses for examination in motions, etc., how procured

384. A party to any action or proceeding may require the attendance of a witness to be examined before any officer having jurisdiction in the judicial district where the witness resides to issue appointments for the examination of parties for discovery, for the purpose of using his evidence upon any motion, petition or other proceeding before the court or any judge or judicial officer in chambers; and his attendance may be procured and his examination conducted in the same manner as those of a witness at the trial. [282 & 284; E. 502 & 504; O. 491 & 492.]

Production of documents and *viva voce* examinations

385. For the purpose of a motion the court or judge may upon such terms as may seem just order documents to be produced and witnesses to appear and be examined *viva voce* before such court or judge or before any other person and at any place:

Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. [268; E. 489; O. 493.]

Disobedience to order for attendance

386. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or of producing any document shall be deemed guilty of contempt of court and may be dealt with accordingly. [269; E. 490.]

Expenses of person ordered to attend

387. Any person required to attend for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court. [270; E. 491.]

Examination, how taken

388. Such examination shall, unless otherwise ordered, be conducted in accordance with the practice at trials so far as the same is applicable. [272 & 284; E. 493 & 504; O. 494.]

Production of prisoner for examination

389. The court or a judge may order the sheriff, gaoler or other officer having the custody of any prisoner to produce him for any examination authorized by these Rules. [O. 495.]

Right to receive certified copies of proceedings

390. Whenever any person wishes to produce to the court or a judge any pleading or other proceeding filed in any office of the court, he may demand and on payment of the lawful fees receive from the officer in whose custody the pleading or other proceeding is, a copy of the same certified by the officer to be a true copy of the original and such copy shall be admissible in evidence to the same extent as the original would be admissible. [265; E. 486; O. 496.]

Proof of payment or default in payment into bank

391. Where money is directed to be paid into a bank, the certificate of the manager, agent, accountant, or like officer of the bank at the place where the money is made payable of such payment or of default in making such payment shall be sufficient evidence of such payment or of default. [O. 497.]

Proof of service of a notice to produce

392. Proof of service and of the time of service of a notice to admit or produce may be given by an affidavit of the solicitor in the cause or his clerk. [E. 378; O. 487.]

Evidence on trial

393. In the absence of an agreement between the parties and subject to these Rules, the witnesses at the trial of an action or at an assessment of damages shall be examined *viva voce* and in open court, but the court or judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the trial on such conditions as may seem just or that any witness, whose attendance for some sufficient cause ought to be dispensed with, be examined before an examiner; but where the other party *bona fide* desires the production of a witness for cross-examination and such witness can be produced, an order shall not be made authorizing his evidence to be given by affidavit. [263; E. 483; O. 483.]

Use of evidence in subsequent proceedings

394. All evidence taken at the trial may be used in any subsequent proceedings in the same cause. [287; E. 507.]

Court or a judge may order depositions to be taken

395. The court or a judge may in any cause or matter, where it appears necessary for the purposes of justice, order any person to be examined upon oath before an officer of the court or any other person and at any place, whether within or without the jurisdiction, and may order any deposition so taken to be filed in the court and may empower any party to the cause or matter to give such deposition in evidence therein on such terms as may seem just.

Examination how taken

(2) Such examination shall, unless otherwise ordered, be conducted in accordance with the practice upon examinations of witnesses at the trial, so far as the same is applicable. [267 & 272; E. 487 & 493; O. 485 (2).]

Persons outside Alberta

396. Where the testimony of a person who is without the limits of Alberta is required, the court or a judge may order the issue of a commission for the examination of such person. [E. 488; O. 499.]

Refusal to attend

397. If any person for whose examination an order has been made or a commission has issued, without just cause refuses to attend before the examiner or commissioner, or if having attended he refuses to be sworn or to affirm or to answer any lawful question the party requiring the attendance of such person may, upon proof of such refusal by certificate of the examiner, apply to a judge for an order directing such person to attend or be sworn or answer any question. [E. 495; O. 500.]

Notice of intention to dispatch commission

398. The party having the carriage of the order or commission shall give the opposite party five days' notice of intention to dispatch the same to the examiner or commissioner. [O. 501.]

399. Notice of intention to proceed to take the examination under the order or commission shall be given to the opposite party if, before the expiry of the time for dispatching the order or commission or within such time as may be provided by the order, he gives the name and the address of a person resident within two miles of the place where the order or commission is to be executed, on whom such notice may be served. [O. 502.] Particulars to be stated in notice

400. Where notice of the execution of the order or commission is required to be served, forty-eight hours' notice shall be sufficient; such notice shall be in writing stating the time and place of the intended examination and shall be addressed to the person named for that purpose before the expiry of the time limited for the dispatching of the order or commission, or as provided in the order; and service upon him or upon a grown-up person at the address given shall be sufficient. If no name and address is given or if the name or address given prove to be illusory or fictitous or if the party so notified fail to attend pursuant to the notice, the order or commission may be executed *ex parte*. [O. 504.] Notice of execution of commission

401. The witnesses shall be examined on oath, affirmation or otherwise, in accordance with their religion, by or before the examiner or commissioner. [O. 505.] Oath of witness

402. Unless otherwise directed by the order or commission the examination of witnesses shall be by oral questions and the oral questions and the answers thereto shall be reduced into writing and returned with the order or commission. [O. 502 pt. & 506.] Mode of examination

403. Where the examination is to take place upon written interrogatories, the interrogatories in chief shall be delivered to the opposite party, unless otherwise ordered, at least eight days before the dispatch of the order or commission; and the cross-interrogatories shall be delivered to the opposite party, unless otherwise ordered within four days after the receipt of the interrogatories in chief; and in default of cross-interrogatories being delivered the opposite party may dispatch the order or commission without cross-interrogatories. [O. 503.] Examination on written interrogatories

404. Where a witness does not understand the English language the order or commission shall, unless otherwise ordered, be executed with the aid of an interpreter nominated by the examiner or commissioner and sworn by him to interpret truly the questions to be put to the witness and his answers thereto, and the examination shall be taken in English. [O. 507.] Interpreter

405. If a witness produce a book, paper or document and refuses for good cause, to be stated in his deposition, to part with the original, then a copy or extract certified by the examiner or commissioner to be a true and correct copy or extract, shall be annexed to the deposition of the witness. [O. 508.] Copies as evidence

406. The depositions may be taken in shorthand if so provided by the order or commission or if the parties so agree. [O. 509.] Depositions may be taken in shorthand

By commissioner or sworn shorthand writer

407. If the examination is to be taken in shorthand the examiner or commissioner may take the same in shorthand or employ a shorthand writer who shall be duly sworn. [O. 510.]

Depositions, how to be signed

408. Unless the examination is taken in shorthand, the depositions shall be subscribed by the witness and by the examiner or commissioner.

(2) Where taken in shorthand it shall not be necessary that the depositions or the transcript thereof be read over and signed by the person examined but the transcript thereof shall be read over to and signed by him if any of the parties so desire.

(3) A copy of the deposition if taken in shorthand by the examiner or commissioner, certified by him, or if taken in shorthand by a shorthand writer employed for the purpose as aforesaid, a transcript certified by him and signed by the examiner or commissioner, shall for all purposes have the same effect as the original depositions. [287a; O. 511.]

Return of commission and use thereof as evidence

409. The depositions and any interrogatories and cross-interrogatories and any documents or certified copies thereof or extracts therefrom referred to therein, shall be sent to the proper officer on or before such day as may be ordered in that behalf, enclosed in a cover under the seal of the examiner or commissioner; and the same or office copies thereof may, unless a judge otherwise orders, be given in evidence by and on behalf of the parties respectively, saving all just exceptions, without any other proof of the absence from Alberta of the witness therein named than an affidavit of the solicitor or agent of the party as to his belief of such absence. [280; E. 500; O. 512.]

Parties joining in commission to share costs

410. Where upon an application for an order or commission to take evidence, the opposite party desires to join in the examination and examine witnesses on his own behalf or names an examiner or commissioner, each party shall pay the costs consequent upon the examination of his witnesses and the appointment of his examiner or commissioner without prejudice to the question by whom such costs shall ultimately be borne.

When commissioner of one party may act alone

(2) If for any reason the examiner or commissioner named by either party refuses to act upon receiving forty-eight hours' notice in writing from the other examiner or commissioner so to do, the examination may be conducted by the examiner or commissioner giving such notice. [O. 513.]

Order for commission to be read as including above particulars

411. Every order for examination or for a commission shall be read as if it contained the above particulars and shall not set forth the same but may contain any variations therefrom and any other directions which the court or judge sees fit to make. [O. 514.]

Opening commission

412. An order for examination or a commission when returned shall be opened at the trial, or before the trial at the instance of any party, without order by the officer to whom it is returned, on two clear days' notice to the parties interested. [O. 515.]

AFFIDAVITS.

413. An affidavit shall be intituted in the cause or matter and shall be drawn up in the first person, stating the name of the deponent in full, and his description and true place of abode, and shall be signed by him. [294 pt., 299 & 300; E. 522 pt., 527 & 528; O. 516.] Form of affidavits

414. The time when and the place where the affidavit is taken shall be expressed in the *jurat*. [297; E. 525.] Contents of *jurat*

415. In an affidavit made by two or more deponents the names of the persons making the affidavits shall be inserted in the *jurat*, but if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both, or all, of the "above named" deponents. [301; E. 529; O. 517.]

416. Affidavits shall be confined to the statement of facts within the knowledge of the deponent, but on interlocutory motions statements as to his belief with the grounds thereof may be admitted. [295; E. 523.] Statements as to belief

417. In an action or proceeding to which a corporation is a party any affidavit required by these Rules to be made by a party may be made by an officer, servant or agent of the corporation having knowledge of the facts required to be deposed to, and he shall state therein that he has such knowledge. [O. 519.] Affidavits by officers of corporation

418. An affidavit having in the *jurat* or body thereof any interlineation, alteration or erasure, shall not be used without leave unless the interlineation, alteration or erasure is authenticated by the initials of the officer taking the affidavit. [304; E. 532; O. 520.] Alterations in affidavits

419. Where an affidavit is sworn by a person who appears to be illiterate, the officer taking the affidavit shall certify in the *jurat* that the affidavit was read in his presence to the deponent who seemed perfectly to understand it and signed it in his presence; otherwise such affidavit shall not be used without leave. [305; E. 533; O. 521.] Affidavits by illiterate persons

420. No affidavit shall be sufficient if sworn before the party on whose behalf it is made or his solicitor or before the clerk or partner of such party or solicitor. [308 & 309; E. 526 & 537; O. 522.] No affidavit to be sworn before solicitor of party

421. The court or judge may receive any affidavit sworn for the purpose of being used in any cause or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or *jurat* or any other irregularity in the form thereof. [306; E. 534.] Use of defective affidavit

422. Affidavits and other papers required to be filed shall be filed before being used. [302; E. 530; O. 523.] Filing of affidavits

423. Affidavits upon which a notice of motion or petition is founded shall be filed before the service of the notice of motion or petition. [O. 524.]

Exhibits, when not to be filed

424. Where property marked exhibits are referred to in an affidavit filed and are not annexed thereto, such exhibits need not be filed and shall be handed out on the disposal of the motion, unless otherwise ordered. [O. 525.]

Notices of admissions

425. Any party to a cause or matter may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the cause of action of any other party. [226; E. 371.]

Notice to admit facts

426. Any party may by notice in writing call on any other party to admit for the purpose of the cause, matter or issue only, any specific fact or facts mentioned in such notice, including any fact in respect of any document; and in case of refusal or neglect to admit the same within six days after service of such notice or within such further time as may be allowed by judge the cost of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the cause, matter or issue may be, unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable:

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter or issue and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving notice:

Provided also that the judge may at any time allow any party to amend or withdraw any admission so made on such terms as may be just. [227, 228; E. 372 & 374.]

Admissions sufficiently signed by solicitor

427. It shall be sufficient if written admissions are signed by the party or by the solicitor of the party by whom or on whose behalf they purport to be made; and the production of such admissions purporting to be so signed shall be *prima facie* evidence of the fact of such signature. [230; E. 377; O. 528.]

Impounded documents

428. Any document produced to a court or a judge may be ordered to be impounded and shall thereafter not be inspected except by leave of the court or judge by whose order it has been impounded. [226; E. 611a.]

ORIGINATING NOTICE.

Originating notice

429. Where under any Statute of Alberta or Ordinance of The North-West Territories proceedings may be taken by originating summons, such proceedings may be taken by notice as hereinafter set out. [469.]

Filing

430. Proceedings authorized to be begun by notice shall be begun by filing a copy of the notice in the office of the clerk for the district in which the proceedings are to be carried on.

Service

431. A notice originating proceedings shall be served at least ten days before the day named in the notice for hearing of the

application, but by leave of a judge such time may be shortened. [471.]

Proceedings begun by originating notice

432. Proceedings may be commenced by originating notice in the following cases:

(*a*) Proceedings to recover possession of land;

(*b*) Proceedings for foreclosure, sale or redemption under a mortgage or lien;

(*c*) Applications for the appointment of a new trustee with or without a vesting or other consequential order, or for a vesting or other consequential order on the appointment of a new trustee;

(*d*) Proceedings for the declaration of a beneficial interest in or a charge upon land and of the character and extent thereof and for the declaration of settling the true priority as between such interest or charge and other interests or charges, notwithstanding any entry in the register or the registration or filing of any instrument, and for an order cancelling any certificate of title or making any title subject to the said interest or charge.

(*e*) Proceedings for the determination of any question of construction arising under any written instrument and for a declaration of the rights of the persons interested. [469; 488; E. 767 (a); 775 (a).]

Originating notice relating express trusts and administration of estate of deceased person

433. The executors or administrators of a deceased person or any of them and the trustees under any deed or instrument or any of them or any person claiming to be interested in the relief sought as creditor, devisee, legatee or next-of-kin of a deceased person or as *cestui que trust* under the trusts of any deed or instrument or as claiming by assignment or otherwise under any such creditor or other person as aforesaid, may serve a notice of motion returnable before a judge for such relief of the nature and kind following, as may be specified in the notice and as the circumstances of the case may require: that is to say, the administration of the estate or trust or the determination without an administration of the estate or trust of any of the following questions or matters:

(*a*) Any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee or next-of-kin or *cestui que trust.*

(*b*) The ascertainment of any class of creditors, legatees, devisees, next-of-kin or others.

(*c*) The furnishing of any particular accounts by the executors or administrators or trustees and the vouching, where necessary, of such accounts.

(*d*) The payment into court of any money in the hands of the executors or administrators or trustees.

(*e*) Directing the executors or administrators or trustees to do or abstain from doing any particular act in their character as such executors, administrators or trustees.

(*f*) The approval of any sale, purchase, compromise or other transaction.

(*g*) The opinion, advice or direction of a judge pursuant to *The Trustee Ordinance* or any Act passed in substitution therefor.

(*h*) The determination of any question arising in the administration of the estate or trust. [481 pt.; E. 765 pt.; O. 938.]

Persons to be served with notice

434. The persons to be served with notice under the preceding Rule in the first instance shall be the following, that is to say:

(1) Where the notice is served by an executor, administrator or trustee:

(*a*) For the determination of any question under clauses (*a*), (*e*), (*f*), (*g*) or (*h*), the persons or one of the persons whose rights or interests are sought to be affected.

(*b*) For the determination of any questions under clause (*b*), any member or alleged members of the class.

(*c*) For the determination of any question under clause (*c*), any person interested in taking such accounts.

(*d*) For the determination of any question under clause (*d*), any person interested in such money.

(*e*) If there be more than one executor or administrator and they do not all concur in the service of the notice, those who do not concur.

(2) Where the notice is served by any person other than the executors, administrators or trustees, the said executors, administrators or trustees. [454, 482; E. 767 pt.; O. 939.]

Directions and evidence

435. The judge may give such directions as may seem necessary, and upon the return of the motion may permit evidence to be given *viva voce*. [456, 483; E. 769.]

Service of originating notice

436. All the Rules relating to service of a statement of claim on a defendant, whether personal or substitutional and whether within or without the jurisdiction, shall apply to the service of an originating notice. [472.]

Special directions as to service

437. Where necessary the judge may give directions as to the persons to be served with an originating notice. [455; E. 768; O. 940.]

Summary judgment or order

438. The judge may summarily dispose of the questions arising on the application and make such order as the nature of the case may require or may give such directions as may seem proper for the trial of any questions arising upon the application.

(2) Upon disposing of an application for foreclosure, sale or redemption, judgment may be given upon the covenants as well as an order for the possession of the lands, together with any necessary vesting orders. [484 & 453; E. 770; O. 941.]

Carriage and service of judgment or order

439. Any special directions touching the carriage or execution of the order or the service thereof upon persons not parties may be given as may seem proper. [457, 474, 485; E. 771; O. 942.]

Non-interference with directions of trustees, etc.

440. Service of a notice under Rule 434 shall not interfere with or control any power or discretion vested in any executor, administrator or trustee except so far as such interference or control may necessarily be involved in the particular relief sought. [481 pt.; E. 774; O. 943.]

Application for partition or sale

441. An adult person entitled to compel partition of land or any estate or interest therein may on notice to one or more of the persons entitled to a share therein apply to a judge for partition or sale, and the judge may make such order for partition or sale or such other order as may seem just. [O. 956.]

442. A judgment or order for the administration or partition or sale of an estate in which an infant is interested shall not be made until the infant is represented by its guardian *ad litem.* [O. 948.] Infant's estate

443. Where judgment or an order for administration or sale is granted, the referee or person to whom the matter is referred shall, unless otherwise ordered, have power to deal with the estate, the subject of administration or partition or sale, and shall have power to dispose of the costs and finally wind up all matters connected with the estate without any further directions and without any separate, interim or interlocutory reports or orders, except where the special circumstances of the case require. Power of referee

(2) All moneys realized from the estate shall forthwith be paid into court and no moneys shall be distributed or paid out for costs or otherwise without an order of the judge, and upon an application for an order for distribution the judge may review or amend the report or refer it back to the referee or make such other order as may seem meet. [O. 953.] Moneys to be paid into court

444. It shall not be necessary for the court or judge to pronounce a judgment or make an order, whether on any summary application or otherwise, for the administration of any trust or of the estate of any deceased person, if the questions between the parties can be properly determined without such judgment or order. [486; E. 772; O. 954.] General administration need not be ordered

445. In any action or proceedings for the administration or execution of trusts by a creditor or beneficiary under a will intestacy or instrument of trust, where no accounts or insufficient accounts have been rendered, the judge may in addition to any powers already existing: Additional order where no or insufficient accounts have been rendered

(*a*) Order that the executors, administrators or trustees shall render to the plaintiff or applicant a proper statement of their accounts, with an intimation that if such accounts be not rendered they may be made to pay the costs of the proceedings, and the judge may direct the action or proceeding to be stayed or to stand over in the meantime, as may seem just;

(*b*) Where necessary to prevent proceedings by other creditors or by beneficiaries, make the usual judgment or order for administration, with a provision that no proceedings are to be taken thereunder without the leave of a judge. [487; E. 772a; O. 955.]

PETITIONS.

446. All proceedings not authorized to be commenced by statement of claim or originating notice shall be commenced by petition. Petitions, when used

447. There shall accompany or be endorsed on every petition which requires to be served a notice addressed to the parties concerned, stating when and where the petition will be presented and specifying the affidavits or other material to be used in support thereof. [cf. E. 711; O. 937.] Endorsement on petition

Petition for leave to pay money into court under *Trustee Ordinance*

448. A petition for leave to pay money into or deposit securities in court under *The Trustee Ordinance* shall be intituled in the matter of the Ordinance and of the trust and shall describe the trust and the instrument creating it and give the names and residences of the persons interested therein, as far as known, and the place where the petitioner may be served with notice of any proceedings relating to the money or securities and shall be verified by affidavit. [E. 762h.]

449. Notice of any payment or deposit shall be given to such person and in such manner as the judge granting leave shall direct. [E. 762h.]

Compromise where infant etc., concerned

450. No settlement or compromise or acceptance of money paid into court, whether before, at or after the trial in any cause or matter in which money or damages are claimed by or on behalf of an infant or person of unsound mind, shall be valid without the sanction of a judge. [E. 269.]

Title of petition as to real estate of infant

451. A petition for the sale or other disposition of the real estate of an infant shall be intituled "In the matter of....., an infant." [O. 962.]

Contents of of petition

452. The petition shall state the nature and amount of the personal property to which the infant is entitled, the necessity of resorting to the real estate, its nature, value and the annual profits thereof; it shall designate the lands to be disposed of, propose a scheme for that purpose and for the appropriation of the proceeds and state specifically the relief desired and circumstances sufficient to justify the sale or other disposition of the land and the application of the proceeds in the manner proposed.

(2) If an allowance for maintenance is desired, a case shall also be stated and made to justify such an order and to regulate the amount.

(3) If the appointment of a guardian is desired, reasons shall be stated for the appointment of the person proposed. [O. 964.]

Production of infant

453. Unless otherwise directed by the judge or other officer making the order the infant shall be produced before him. [cf. 585; O. 965.]

Infant if over 14 years to be examined

454. Unless otherwise directed by the judge the infant where above the age of fourteen years shall be examined apart by the judge upon the matter of the petition and as to his consent thereto. [cf. 579.]

If out of Alberta

(2) Where the infant is out of Alberta the judge may direct inquiry as to the infant's consent by his examination in such manner as may seem proper, or by affidavit or otherwise, as may seem just.

Infant under 14 need not be examined

455. It shall not be necessary to examine an infant under fourteen years of age unless otherwise ordered, but it shall be sufficient for the judge before whom such infant is produced to certify that he has been produced and that he is, or appears to be, under the age of fourteen years. [O. 967.]

456. The witnesses to verify the petition shall, unless otherwise ordered, be examined *viva voce* before the judge making the order as to the matter of the petition. [O. 968.] Examination of witnesses in support of petition

457. No instrument dealing with the lands shall be executed until evidence is produced of the consideration money having been paid into court or of the payment thereof into court having been dispensed with; and, where a mortgage is taken for part of the purchase money, until evidence is given of such mortgage having been registered and deposited with the clerk. [O. 970.] Evidence of payment of consideration prior to execution

458. Whenever the judge deems it convenient so to do he may appoint some other person to execute an instrument in the place of the infant. [580.] Appointment of person to execute

459. Every such instrument, whether executed by the infant or some person appointed to execute the same in his place, shall be as effectual as if the infant had executed the same and had been of the age of twenty-one years at the time. [581.]

460. The moneys arising from any such sale, mortgage, lease or other disposition shall be laid out, applied and disposed of in such manner as the judge directs. Application of moneys

461. If any real estate of an infant is subject to any encumbrance and the person entitled to such encumbrance consents in writing to accept in lieu of such encumbrance any gross sum of money which the judge thinks reasonable or the permanent investment of a reasonable sum of money in such manner that the interest thereof be made payable to the person entitled to such encumbrance during her or his life, the judge may direct the payment of such sum or the investment of such other sum of money out of the proceeds or other disposition of the real estate of the infant: Acceptance of gross sum by encumbrancer

Provided always that it shall be competent for the judge in any case where the estate of the infant is subject to any lien or encumbrance of uncertain duration to compute the reasonable value of the same and to order the sale or other disposition of the estate of the infant freed or discharged from such encumbrance and direct the payment of the value of such encumbrance out of the proceeds of the sale or other disposition of the real estate of the infant. [584.]

SUMMARY INQUIRIES IN AID OF EXECUTION.

462. Where a judgment creditor alleges that the judgment debtor has made a conveyance of his lands which is void as being made to delay, hinder or defraud creditors or a creditor, it shall not be necessary to institute an action for the purpose of setting aside the conveyance, but a motion may be made to a judge by the judgment creditor calling upon the judgment debtor and the person to whom the conveyance has been made or who has acquired any interest thereunder to show cause why the lands embraced therein or a competent part thereof should not be sold to realize the amount to be levied under the execution. [245; O. 1015.] Motion for order for sale of lands fraudulently conveyed by judgment debtor

Motion for order of sale of judgment debtor's equitable interest

463. Where a judgment creditor alleges that the judgment debtor is entitled to or has an interest in land which cannot be sold under legal process, but can be rendered available by proceedings for equitable execution by sale for satisfaction of the debt, a motion may be made to a judge by the judgment creditor calling upon the judgment debtor and the trustee or other person having the legal estate in the land in question to show cause why the said land or the interest therein of the judgment debtor or a competent part thereof should not be sold to realize the amount to be levied under the execution. [246; O. 1016.]

Proceedings after such applications

464. Upon any application under either of the two preceding Rules such proceedings shall be had either in a summary way or by the trial of an issue or by inquiry before an officer of the court or by an action or otherwise, as the judge may deem necessary or convenient for the purpose of ascertaining the truth of the matters in question and whether the land or the judgment debtor's interest therein is liable for the satisfaction of the execution. [247; O. 1017.]

Order for sale

465. Where, in a summary way or upon the trial of an issue or as the result of an inquiry under the next preceding Rules, any land or the interest of a debtor therein is found liable to be sold an order shall be made by the judge, declaring what land or what interest therein is liable to be sold and directing sale thereof according to the usual practice. [248; O. 1019.]

Interim injunction or receiver

466. Pending any such issue or inquiry an interim injunction order may be issued or a receiver appointed to prevent the transfer or other disposition of the property. [249.]

EXTRAORDINARY REMEDIES—REPLEVIN.

Order of replevin

467. In any action brought for the recovery of any personal property and claiming that such property was unlawfully taken [or] is unlawfully detained, the plaintiff may, if he desires to replevy such property, obtain an order of replevin for the delivery of the property to him. [426; O. 1067.] Amended 23rd Oct., 1914.

How obtained

468. An order of replevin may be obtained:

(1) From the clerk on *praecipe* if the plaintiff, his servant or agent makes an affidavit giving the description and value thereof and stating—

(*a*) That the plaintiff is the owner or lawfully entitled to the possession thereof;

(*b*) That the property was wrongfully taken out of the possession of the plaintiff or fraudulently got out of his possession within two months next before making the affidavit; or, if the property was distrained for rent or *damage feasant*, that the property was taken under colour of distress for rent or *damage feasant*, as the case may be, within the said period of two months.

(2) In other cases, from a judge, on motion therefor, on an affidavit by the plaintiff or some other person showing the fact of the wrongful taking or detention complained of, the value

and description of the property, and that the plaintiff is the rightful owner thereof or is lawfully entitled to the possession thereof, as the case may be. [427; O. 1068, 1069.]

Discretionary power of the court or judge

469. Where a motion for an order is made, the judge may grant the order *ex parte* or may direct notice to be served on the defendant to show cause why the order should not issue; and may in either case direct the sheriff to take a bond in less or more than double the value of the property, or may direct him in addition to or without taking a bond to take and detain the property until further order, instead of at once restoring the same to the plaintiff; or may order that the plaintiff, instead of giving a bond, be at liberty to pay into court to the credit of the action such sum as may be proper (to be named in the order), to stand as security to the defendant in the same manner and to the same extent as any bond which the plaintiff would otherwise be required to give to the sheriff; or may impose any terms or conditions in granting or refusing the order as under the circumstances seem just.

(2) Money, when paid into court, shall remain in court as security as aforesaid, subject to further order by a judge. [O. 1069.]

Application to discharge order

470. Where an order of replevin is issued the defendant may at any time, on notice to the plaintiff, apply to a judge to discharge, vary or modify the order or stay proceedings thereunder, or for any other relief with respect to the return, safety or sale of the property or any part thereof or otherwise, and the judge may make such order thereon as may seem just. [429 (2); O. 1070.]

Contents of order

471. The order shall state the description and value of the property to be replevied. [O. 1071.]

Replevin bond to be taken by sheriff

472. Subject to any order providing for the payment of money into court, instead of the giving of a bond, before the sheriff acts on the order, he shall take a bond from the plaintiff with two sufficient sureties in such sum as may be prescribed by order or, if no such sum has been so prescribed, then in double the value of the property as stated in the order of replevin; the bond shall be assignable to the defendant.

(2) Where money is paid into court, instead of a bond being given, the sheriff may, subject to any provisions in the order, act on the order upon a certificate of the clerk of the court being delivered to him that the money required to be paid into court has been paid in pursuant to the order. [428; O. 1072.]

473. The condition of the replevin bond shall be that the plaintiff shall prosecute the action with effect and without delay and will return the property to the defendant if ordered so to do and pay such damages, costs and expenses as the defendant shall sustain by reason of the issue of the replevin order if the plaintiff fails to recover judgment. [428.]

What sheriff shall do when order issues on *praecipe*

474. Where the order is issued by the clerk on *praecipe* the sheriff shall take and detain the property and shall not deliver the same to the plaintiff without the order of a judge, but shall,

within fourteen days from the time of taking the same, redeliver it to the defendant unless in the meantime the plaintiff obtains and serves on the sheriff an order directing a different disposition of the property. [O. 1076.]

Return of order with statement

475. The sheriff shall return the order to the clerk on or before the tenth day after the service thereof and shall transmit, annexed thereto, a statement specifying:

(*a*) The names of the sureties in and the name of the replevin bond and the name or names of the witnesses thereto;

(*b*) The place of residence and occupation of the sureties;

(*c*) The number, quantity and quality of the articles of property of which he has taken possession, and, in case he has taken possession of only a portion of the property and cannot take possession of the residue, the articles of which he cannot take possession and the reason therefor. [O. 1077.]

Damages on judgment by default

476. Where the plaintiff is entitled to sign judgment by default he may sign final judgment for five dollars in respect of any claim for damages, but shall not be entitled to recover a larger sum as damages except upon an assessment before a judge or jury or upon filing the written consent of the defendant or his solicitor and an affidavit verifying the signature to such consent. [O. 1079.]

MANDAMUS.

Mandamus on motion

477. A *mandamus* may be granted by judgment or by order on motion to a judge. A writ of *mandamus* shall not be issued, but the judgment or order shall have the same effect as a writ of *mandamus* formerly had. [411; E. 722; O. 1080.]

Mandamus in action

478. In any action the plaintiff may claim in the statement of claim, either alone or together with any other relief, a *mandamus* commanding the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested. [407; E. 719; O. 1081.]

Judgment

479. If judgment is given for the plaintiff, the court or judge may thereby command the defendant, either forthwith or on the expiration of such time and upon such terms as may seem just, to perform the duty in question. The time for the performance of the duty may be extended by the court or a judge. [408; E. 721; O. 1083.]

Jurisdiction to grant prerogative writ

480. Nothing in the three preceding Rules contained shall take away the jurisdiction of the Supreme Court in cases where the prerogative writ of *mandamus* might formerly have been granted, but in such cases, in lieu of such writ, an order of *mandamus* may be made on motion without action. [O. 1084.]

Non-compliance with order

481. Any person directed to do any act by an order of *mandamus* who, having been duly served with such order, fails to comply with the terms thereof, may be proceeded against for contempt of court. [O. 1085.]

INJUNCTION.

482. An injunction may be granted by judgment or order. A writ of injunction shall not be issued, but the judgment or order shall have the same effect as a writ of injunction formerly had. [405; E. 667; O. 1094.] Writ of injunction abolished

INTERIM PRESERVATION OF PROPERTY, ETC.

483. Where, by any contract, a *prima facie* case of liability is established and there is alleged, as matter of defence, a right to be relieved wholly or in part from such liability, a judge may make an order for the preservation or interim custody of the subject matter of the litigation or may order that the amount in dispute be brought into court or otherwise secured. [399; E. 657; O. 1095.] Order for interim preservation of property

484. A judge may upon the application of any party and upon such terms as may seem just make any order for the detention or preservation of property, being the subject of the action, or for the inspection of any property, the inspection of which is necessary for the proper determination of the question in dispute, and for all or any of the purposes aforesaid may authorize any person or persons to enter upon any land or into any building in the possession of a party, and may authorize any samples to be taken or any observation to be made or experiment to be tried which may seem necessary or expedient for the purpose of obtaining full information or evidence. [401; E. 659; O. 1096.] Order for detention and inspection of property

485. A judge may, on the application of a party, order any person or persons named in the order to sell in such manner and on such terms as may seem just, any goods, wares or merchandise which may be of a perishable nature or likely to be injured from keeping, or which for any other reason it may be desirable to have sold at once. [400; E 658; O. 1097.] Sale of perishable goods

486. The application may be made by the plaintiff at any time after his right appears from the pleadings; or, if there be no pleadings, is made to appear by affidavit or otherwise. [399; E. 663; O. 1098.] Time of making application

487. Where an action is brought, or a defendant, by way of counterclaim, seeks to recover specific property other than land and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for money, a judge, at any time after such last mentioned claim appears from the pleadings or, if there be no pleadings, by affidavit or otherwise, may order that the party claiming to recover the property be at liberty to pay into court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed and such further sum, if any, for interest and costs as the judge may direct and that, upon such payment into court being made, the property claimed be given up to the party claiming it. [403; E. 664; O. 1099.] Amount of security claimed may be paid into court and property delivered up

PROHIBITION.

Application for prohibition on motion

488. Prohibition may be granted by judgment or order upon motion to a judge. A writ of prohibition shall not be issued but the judgment or order shall have the same effect as a writ of prohibition formerly had. [O. 1100.]

INTERPLEADER.

When relief granted

489. Relief by way of interpleader may be granted:

(*a*) Where the person seeking relief (hereinafter called the applicant) is under liability for any debt, money, goods or chattels for or in respect of which he is or expects to be sued by two or more persons (hereinafter called the claimants) making adverse claim thereto;

(*b*) Where the applicant is a sheriff or other officer charged with the execution of process by or under the authority of the court and claim is made to any goods (including money and costs in action) taken or intended to be taken in execution under attachment or to the proceeds or value thereof by (*a*) any person other than the person against whom the process is issued, (*b*) any person, as landlord for rent, or (*c*) the execution or attachment debtor claiming the benefit of any exemption from seizure allowed by law. [431; E. 850; O. 1103.]

Claims of third parties to goods taken in execution

490. Where a claim is made to or in respect of any goods taken in execution under the process of the court, it shall be in writing and upon the receipt of the claim the sheriff or officer shall forthwith give notice in writing thereof to the execution creditor, and the execution creditor shall within four days after receiving the notice give notice in writing to the sheriff or officer that he admits or disputes the claim. If the execution creditor admits the title of the claimant and gives such notice, he shall only be liable to such sheriff or officer for any fees and expenses incurred prior to the receipt of the notice admitting the claim. [432; E. 864a; O. 1115.]

Notice of motion by sheriff for interpleader order

Withdrawal of claim

Admission of title of claimant

491. Where the execution creditor does not in due time as directed by the last preceding Rule admit or dispute the title of the claimant to the goods and the claimant does not withdraw his claim thereto by notice in writing to the sheriff or officer, the sheriff may give notice of motion for an interpleader order and should the claimant withdraw his claim by notice in writing to the sheriff or officer or should the execution creditor in like manner serve an admission of the title of the claimant prior to the return day of such motion, and at the same time give notice of such admission to the claimant, the judge may in and for the purposes of the interpleader proceedings, make all such orders as to costs, fees, charges and expenses as may be just and reasonable. [433; E. 864; O. 1116.]

Procedure on admission of claim

492. When the execution creditor has given notice to the sheriff or officer that he admits the claim of the claimant, the sheriff may thereupon withdraw from the possession of the goods claimed and may apply for an order protecting him from any

action in respect of the said seizure and possession of the said goods, and the judge may make such order as may be just and reasonable in respect of the same:

Provided always that the claimant shall receive notice of such intended application and, if he desires it, may attend the hearing of the same and, if he attends, the judge may in and for the purposes of such application make all such orders as to costs as may be just and reasonable. [864 (b).]

Matters to be proved by applicant

493. The applicant shall satisfy a judge by affidavit or otherwise:

(*a*) That he claims no interest in the subject matter in dispute other than for charges or costs;

(*b*) That he does not collude with any of the claimants;

(*c*) That he is willing to pay or transfer the subject matter into court or to dispose of it as the judge may direct. [434; E. 851; O. 1104.]

Adverse titles of claimants

494. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin but are adverse to and independent of one another. [435; E. 852; O. 1105.]

Application by defendant

495. Where the applicant is a defendant, application for relief may be made at any time after service of the statement of claim and the judge may stay all further proceedings in the action. [436 & 438; E. 853 & 855; O. 1106.]

Motion by applicant

496. The applicant may make a motion calling on the claimants to appear and state the nature and particulars of their claims and either to maintain or relinquish them. [437; E. 854; O. 1107.]

Order on failure of claimants to appear

497. Where a claimant does not appear on the motion after having been served with a notice of motion calling on him to appear and maintain or relinquish his claim, or, having appeared, neglects or refuses to comply with any order made thereafter, a judge may make an order declaring him and all persons claiming under him to be forever barred as against the applicant and all persons claiming under him, but the order shall not affect the rights of the claimants as between themselves. [442; E. 859; O. 1108.]

Order upon motion

498. Where the claimants appear on the motion, the judge may order that any claimant be made a defendant in any action already commenced in respect of the subject matter in dispute in lieu of or in addition to the applicant, or that an issue between the claimants be stated and tried and in the latter case may direct which of the claimants shall be plaintiff and which defendant. [439; E. 856; O. 1109.]

Disposal of matters in summary manner

499. The judge may with the consent of both claimants or on the request of any claimant, if having regard to the value of the subject matter in dispute it seems desirable so to do, dispose of the merits of their claims and, subject to appeal, decide the same in a summary manner and on such terms as may seem just. [440; E. 857; O. 1110.]

Questions of law

500. Where the question is one of law and the facts are not in dispute, the judge may decide the question without directing the trial of an issue, or may order that a special case be stated for the opinion of the court. [441; E. 858; O. 1111.]

Order for sale of goods seized in execution

501. Where goods or chattels have been seized in execution or attachment by a sheriff and any claimant alleges that he is entitled under a bill of sale or otherwise to the goods by way of security for debt, the judge may order the sale of the whole or a part thereof and direct the application of the proceeds of the sale in such manner and upon such terms as may seem just. [444; E. 861; O. 1112.]

Final disposition of interpleader proceedings

502. The judge who tries the issue may finally dispose of the interpleader proceedings, including all costs not otherwise provided for. [445; E. 862; O. 1114.]

Only one application where more than one execution

503. In case a sheriff has more than one execution against the same property, he shall not make a separate application in each case, but he may make one application and may make all the execution creditors parties. [446 pt.; O. 1118.]

Execution from several courts, application to supreme court

504. Where there are executions from different courts against the same property whether on behalf of the same plaintiff or of different plaintiffs, the application for interpleader shall be made to a judge of the Supreme Court, and such judge shall dispose of the whole matter as if all of the executions against the property had been issued from the said court. [O. 1119.]

Title of order in several actions

505. Where it is necessary or expedient to make an order in several actions or matters, the order may be made and shall be intituled in all such actions or matters and, subject to the right of appeal, shall be binding on all the parties. [446 pt.; E. 863; O. 1117.]

When issue is ordered, sheriff's costs to be first lien on property exigible

506. Where an issue is directed to be tried, the costs of the sheriff incurred in consequence of the adverse claim shall be a first charge upon the goods which may be found in the issue to be subject to the execution.

Sheriff may tax costs and serve copy of certificate on each party

(2) In addition and without prejudice to the said charge the sheriff may after the issue has been directed to be tried tax such costs and may serve a copy of the certificate of taxation upon each of the parties to the issue and the party who has been awarded costs upon the issue shall tax such sheriff's costs as part of his costs of the cause and upon receipt thereof shall pay over the same to the sheriff, unless he has been previously paid.

The successful party liable to sheriff for costs

(3) Where after the service of the certificate the party succeeding upon the issue has not been awarded costs or neglects or refuses to tax the sheriff's costs, the sheriff may obtain an order that such party shall pay the same.

Upon compromise, person issuing execution liable to the sheriff for costs

(4) Where the proceedings are compromised between the parties thereto, the costs of the sheriff shall be paid by the party by whom the execution was issued. [O. 1120.]

Payment to sheriff for custody

507. Where after the seizure an issue is directed and the property seized remains, pending the trial of the issue, in the

custody of the sheriff who seized the same, a judge may make an order for the payment to the sheriff of such sum for his trouble in relation to the custody of the property as the judge deems reasonable; and the sheriff shall have a lien upon the property for payment of the same in the event of the issue being decided against the claimant to the extent to which such issue shall be so decided. [O. 1121.]

Claimant permitted to retain possession until adjudication

508. Pending the adjudication on a claim the sheriff may upon sufficient security being given to him by bond or otherwise for the delivery to him of the property so taken or the value thereof when demanded, permit the claimant to retain possession of the same until there shall be final adjudication in respect thereof; but in every such case the sheriff or other officer may at any time resume the actual and absolute possession and custody of the said property notwithstanding such bond or security. Horses, cattle, sheep or any perishable goods, the subject of interpleader, may at the request of either party and upon his furnishing sufficient security or by order of a judge be sold by the seizing officer at public auction to the highest bidder upon such terms as to notice and otherwise as the judge may direct. [447.]

Costs, etc.

509. A judge may in and for the purposes of an interpleader proceeding make all such orders respecting the satisfaction or payment of any lien or charges of the applicant and as to costs and all other matters as may be just and reasonable. [448; E. 864; O. 1122.]

When issue may be tried in district court

510. Where the amount claimed under or by virtue of executions in the sheriff's hands issued out of one or more courts does not exceed the sum of $600 exclusive of interest and sheriff's costs or where the goods seized are not in the opinion of the judge or other person making the order of the value of more than $600, the order directing an issue to be tried may direct that the issue shall be drawn up and tried in the District Court of such district as he shall direct, and in such case the issue shall be drawn up, filed and tried in such district court, which shall, where any of the executions were issued out of the Supreme Court, have jurisdiction in the premises as fully as though the same had issued out of the District Court.

(2) Where an application is made for an order under this Rule upon the ground that the goods seized are not of the value of more than $600, a list of the goods and of the values placed upon them shall be set out in the affidavits upon which the application is based. [O. 1125.]

Costs in interpleader proceedings

511. The costs of all proceedings on or following interpleader proceedings shall, unless otherwise ordered, be ascertained and taxed by reference to the value of the property in question in such proceedings.

OFFICERS AND OFFICES.

Officers

512. Except during vacations and on holidays and Saturdays the offices of the Supreme Court of Alberta and of the district courts shall be kept open from 10 a.m. to 4 p.m. [O. 9.]

513. The offices of the Supreme Court of Alberta and of the district courts shall on Saturdays and during vacations be kept open from 10 a.m. to 1 p.m. [O. 10.]

Personal attendance necessary to transaction of business

514. No business shall be transacted in any of the offices of the courts, either in procuring or issuing process or in entering judgments or taking any proceeding whatever in a cause or matter, unless upon the personal attendance of the party on whose behalf such business is required to be transacted or of the counsel or solicitor of such party or the clerk or agent of the solicitor or the clerk of the agent. [O. 11.]

Absence of officers

515. In case of the absence or illness of any officer to whom any special duty is assigned the duty may be performed by such other officer as may be designated for that purpose by the chief justice, or, in his absence, the senior judge of the Supreme Court. [O. 13.]

516. A clerk, deputy clerk or process issuer being absent or ill may in writing appoint some person to act for him and such person shall during such absence or illness as aforesaid have, use and exercise all the powers, duties and functions of the officer appointing him, but the responsibility of such last mentioned officer shall not cease by reason of such appointment. [7. Ed. VII., c. 5, s. 6; 9 Ed. VII., c. 4, s. 9.]

Office in which proceedings commenced

517. The office in which the first document in a cause or matter is required to be filed shall be deemed to be the office in which the cause or matter is commenced.

(2) Proceedings commenced in the office of a process issuer shall for the purposes of this Rule be deemed to have been commenced in the office of the clerk of the court of the judicial district in which the process issuer resides. [O. 14 & 15.]

Carrying on of proceedings

518. Unless otherwise ordered all proceedings in a cause or matter shall be carried on in the office in which the cause or matter is commenced. [O. 15.]

Issue of statement of claim by clerk

519. Each clerk of court and deputy clerk shall issue any statement of claim required for the commencement of an action upon receiving a copy thereof to be filed in his office. [M. 12.]

Seal of clerk, etc.

520. Each clerk of court, deputy clerk and process issuer shall have a seal and he shall seal therewith and sign all writs, statements of claim and process issued by him. [M. 13.]

Duties of clerk and deputy clerk

521. Every clerk and deputy clerk in addition to any other duties which he may be required by law to perform, shall:

(*a*) Receive, file and have the custody of all pleadings, petitions, appearances, reports, depositions, affidavits, bonds and other papers in every action, suit, matter and proceeding in the court of which he is clerk or deputy clerk, and make or cause to be made entries thereof in the proper books;

(*b*) Amend pleadings; enter notes of default in pleadings and give certificates thereof;

(*c*) Have the care and custody of all documents required or

ordered to be deposited for safe keeping or otherwise under any order of the court or any Act of Parliament, and make or cause to be made entries thereof in proper books;

(*d*) Issue all writs, commissions and orders obtainable on *praecipe;* issue writs of execution and other process under judgments or orders;

(*e*) Certify proceedings; examine and authenticate office copies of pleadings and other proceedings; prepare, sign and issue certificates for registration; receive commissions and attend the opening of same.

(*f*) Sign all judgments required to be signed in his office; issue all such judgments and all orders pronounced within the judicial district of which he is clerk or deputy clerk and enter such thereof as by the Rules and practice are required to be entered; have the custody of judgment and order books;

(*g*) Set down actions for trial, motions, appeals, special cases and other business coming before the court or a judge thereof;

(*h*) Attend with records, exhibits and papers on the court of judges thereof;

(*i*) Act by himself or by some official or employee in his office as clerk of the court or to a judge at any sitting for the trial of civil or criminal causes, matters or proceedings in court, and in chambers where there is no clerk in chambers; enter in proper books a record of all such proceedings and settle and issue all judgments and settle and sign all orders pronounced thereat;

(*j*) Keep an account or accounts of all fines, fees and moneys payable to or paid into and out of court in proper and approved books;

(*k*) Tax costs and act as examiner and as referee when required;

(*l*) Keep such books as are required by these Rules or by the Attorney General and do and perform all such other acts and duties as may be required of him by the judges or by the Attorney General or by any Act or Ordinance.

Duties of process issuer

522. A process issuer shall be supplied by the clerk of the court or deputy clerk with blank forms, original and *mesne* processes signed by the said clerk or deputy clerk and shall issue same. He shall countersign each one before issuing it, collect the fees payable in respect thereof and make the proper entries in the record book. Immediately upon issuing process by which an action or proceeding is commenced he shall mail to the clerk of the court or deputy clerk from whom he received the process the copy thereof left with him, if any, or, if no copy be filed, then a notice setting out the style of cause, the nature of the process, the date of same and the particulars in regard to the claim. [7 Ed. VII., c. 5, s. 6, s.s. 3.]

Duties of clerk in chambers

523. The clerk in chambers shall be attached to the office of the clerk of the court and shall perform such duties as may be assigned to him by the clerk or by the Rules of Court. He shall attend all sittings of a judge in chambers and enter in a proper book a complete record of all proceedings; he shall settle and sign all orders and settle and issue all judgments made by a judge in chambers. [O. 634 pt.]

Registrars

524. There shall be one or more registrars of the Supreme Court.

Duties of registrar

525. A registrar of the court shall perform such duties as may be required of him under any Rule of court or assigned to him from time to time by the judges or by the Attorney General and shall:

(*a*) Receive and file notices of appeal and of motions to the appellate division of the court and all papers and documents in connection therewith;

(*b*) Forthwith, after appeal books in a case have been filed, transmit to each judge before whom the appeal is to be heard, a copy of the appeal book;

(*c*) Enter in a proper book provided for that purpose a list of appeals and motions set down for hearing at each sitting of the court; make out and post a list of such appeals and motions and furnish each judge of the court with a copy thereof;

(*d*) Have control and custody of appeal books, records, exhibits, affidavits and papers relating to appeals, motions and matters before the court until the conclusion of the same;

(*e*) Attend with records, exhibits and papers on the court or the judges thereof and keep a full and complete record of all proceedings before the said court or the judges thereof, such record to show the names of the judges present, the date, the style of cause in each case, the names of counsel and for whom appearing, the particulars of the appeal or motion, the result, the judgment or judgments, if any, given, and the time occupied in hearing;

(*f*) Settle and issue all judgments and settle and sign all orders made by the court at which he attended as registrar and all orders made by a judge thereof, and tax the costs of motions and appeals before such court;

(*g*) Unless otherwise ordered, at the conclusion of an appeal and after issue of the order or judgment and the taxation of costs, transmit to the office in which the action or proceeding was commenced all papers relating thereto except the appeal books; retain possession of the appeal books in appeals entered for hearing at the place where he has his office.

Official shorthand reporters

526. Official shorthand reporters heretofore appointed or who shall hereafter be appointed, shall be officers of the court and shall perform such duties as may be assigned to them by Rule of court or by the Attorney General.

Copies to be ordered in writing

527. All copies of evidence and of judgments required to be furnished by official shorthand reporters, shall be ordered in writing through the clerk of the Supreme Court at the place where the reporter taking the evidence resides. Upon payment to him of the amount required for such copies, or upon production to him of the reporter's receipt for the amount, the clerk of the court may deliver the copies to the person ordering the same.

Supply of copies

528. Each shorthand reporter employed to take evidence in actions, suits, matters and proceedings before the court or a judge shall furnish copies of his notes of evidence in the order in which same are required of him, unless otherwise ordered by a judge, and, upon completion thereof, shall deposit the same, certified by him, with the clerk through whom he received the order, and shall also at the same time leave with the said clerk a memorandum showing the number of folios and the fees payable thereon.

529. The fees payable for copies of evidence shall be the fees fixed by the Attorney General from time to time. Fee for copies

530. The reporter from whom copies of notes of evidence are ordered in any instance may require that a reasonable deposit be made to cover the cost of such copies and shall notify the clerk of the amount thereof and the clerk shall notify the party ordering the evidence of the requirement of the reporter and in such instance the reporter shall not be required to make such copies until such deposit be made with the clerk. Deposit for copies

531. Any dispute regarding the amount of fees or deposit shall be settled by the clerk subject to an appeal to a judge. Disputes as to fees or deposit

532. The clerk shall keep a record of all copies of evidence and judgments ordered and of the fees received for same. Record of copies, etc.

RULES RELATING TO SIZE OF RECORDS.

533. All rolls and records shall be upon parchment or paper, not exceeding when unfolded eleven inches in length by eight and one-half inches in width, and shall (except as to any endorsement) be printed, written or typewritten on one side of each sheet only. Provided, that any clerk or registrar may under any special circumstances accept any roll or record which is not in conformity with this Rule. (This Rule is to be taken to apply in all administration, probate and guardianship matters.) Size of rolls and records

EXPERTS.

534. The court or a judge may obtain the assistance of merchants, engineers, accountants, actuaries or scientific persons, in such way as may be thought fit, the better to enable any matter in any cause or proceeding to be determined and may act on the certificate of such person or persons. [490; E. 781; O. 94; M. 164.] Experts

THE SOLICITORS' AND AGENTS' BOOK.

535. Every clerk and deputy clerk of the Supreme Court shall keep in his office a book to be called "The Solicitors' and Agents' Book," which may be inspected free of charge, in which each solicitor residing elsewhere than in the city or town in which the clerk's or deputy clerk's office is situate may cause to be entered the name of a solicitor having an office in such city or town, upon whom may be served all pleadings, notices, petitions. orders, warrants and other documents and written communications in relation to business conducted in such clerk's or deputy clerk's office which may require to be served on such solicitor. [O. 90 & 92; M. 162.] Solicitors' and agents' book

LOCAL JUDGE.

536. A local judge of the Supreme Court, shall in actions brought or proceedings taken or proposed to be brought or taken in the Supreme Court in the judicial district of which he is judge Powers of local judge

or acting judge, possess the like powers of a judge of the Supreme Court sitting in chambers, save and except in respect of the matters following, viz.:

(1) All matters which by any statute or ordinance are required to be done by a judge;

(2) All matters relating to criminal proceedings or the liberty of the subject;

(3) Appeals and applications in the nature of appeals, applications concerning the hearing of appeals and applications to vary or rescind an order made by a judge;

(4) Application for advice by an executor, administrator or trustee;

(5) Applications to enable minors with the approbation of the court to make binding settlements of their real and personal estate on marriage; and in regard to questions submitted for the opinion of the court in the form of special cases on the part of such persons as may by themselves, their committees or guardians or otherwise concur therein;

(6) Proceedings as to partition and sale of real estate;

(7) Opposed applications respecting the guardianship of the person or property of infants;

(8) Applications for *certiorari*, prohibition, *mandamas*, receiver or injunction, except as hereinafter provided;

(9) The payment of money out of court or dispensing with payment of money into court in administration and partition matters;

(10) And (unless by consent of the parties) the following proceedings and matters, that is to say:

(*a*) The making of orders for reference;

(*b*) Staying proceedings after verdict or on judgment after trial or hearing before a judge. [cf. O. 42.]

References by local judge

537. Every local judge may refer any matter pending before him in chambers to a judge of the Supreme Court for decision and such judge may dispose of or refer back the same in whole or in part. [O. 45 (2).]

Interlocutory injunction by local judge

538. A local judge may in cases of emergency grant an interlocutory injunction in any action in the Supreme Court brought in the judicial district for which he is judge or in any district in which he is acting as District Court judge under the provisions of the *District Courts Act*, on proof to the satisfaction of the judge that the delay required for an application to a judge of the Supreme Court is likely to involve a failure of justice. Such injunction shall remain in force for such period not exceeding twelve days, as the local judge may direct, unless continued by the local judge under the Rule next following or by a judge of the Supreme Court; and such injunction shall have the same force and effect and may be continued, varied, dissolved and otherwise dealt with by a judge of the Supreme Court as if it had been originally granted by judgment or order of such court or of a judge thereof. [7 Ed. VII, c. 4, s. 43; O. 46; M. 88.]

Mutual consent to hearing by local judge

539. In any action in which a local judge has granted an interlocutory injunction under the next preceding Rule and in which all parties interested consent thereto, the local judge may

hear, determine and dispose of any motion to continue, vary, dissolve or otherwise deal with the injunction, and may impose such terms and conditions as to costs and other like matter as may seem meet. [ib. s.s. 2; O. 46 (2).]

540. Where all parties consent to the hearing, determination and disposal by a local judge, such local judge shall in actions brought and proceedings taken in the Supreme Court in the judicial district of which he is judge or acting judge, possess the like powers of a judge of the Supreme Court for hearing, determining and disposing of all applications and other matters, including trials of actions. [D.C. Act, s. 44.]

Power of master in chambers

541. A master in chambers in regard to all actions brought or proposed to be brought in the Supreme Court shall have power and be required to do all such things, transact all such business and exercise all such authority and jurisdiction in respect to the same as may be done, transacted or exercised under and by virtue of these Rules by any local judge of the Supreme Court, with or without the consent of the parties, except the trial of actions.

Official referee

542. Every local judge, master in chambers, clerk or deputy clerk of the Supreme Court and such other persons as may be appointed by the Lieutenant Governor in Council shall be an official referee for the purposes of references by the Supreme Court or a judge thereof.

SERVICE OF DOCUMENTS.

Personal services

543. Personal service where required shall be effected by leaving with the person to be served a true copy of the document required to be served and where personal service of any document or written communication is required by these Rules or otherwise, the service shall be effected as nearly as may be in the manner prescribed for the service of a statement of claim. [23; E. 1016; 166; O. 245, 145 & 249.]

Service where personal service not required

544. If an address for service is furnished all documents not required to be served personally shall be deemed to be sufficiently served if a true copy is left at the said address. [E. 1013; O. 330.]

Solicitor's acceptance need not be verified

545. Admissions and acceptances of service of any document upon the opposite solicitor need not be verified by affidavit. [25; O. 328; M. 360.]

Service upon solicitor or agent

546. All documents which do not require to be served personally upon the party affected thereby shall be served upon his solicitor when residing in the city or town where the office of the clerk in which the proceedings are being carried on is situate, or if the solicitor does not reside in such city or town, upon the agent or such solicitor named in "The Solicitors' and Agents' Book," to be kept under these Rules, unless a judge or the officer before whom any such proceeding is had, shall otherwise direct. [E. 1018; O. 329; M. 361.]

Service on solicitor giving notice of authority from party hitherto acting in person

547. In all cases where a plaintiff in person has caused a statement of claim to be issued or a defendant in person has delivered his defence on demand of notice and subsequently by a solicitor gives notice in writing to the opposite party or the solicitor or agent of such party that the solicitor giving the notice is authorized to act as solicitor for the party on whose behalf the notice is given, all other documents not required to be served personally shall thereafter be served upon such last mentioned solicitor. [12; O. 336; M. 364.]

Service where solicitor's office closed

548. Where at the time of attendance to serve any paper or document the office of the solicitor for the party upon whom the service is sought to be made is closed or no one is in attendance therein for receiving papers or documents served, service of the paper or document may be effected by mailing the same at any time during the same day, addressed to the solicitor at his office by registered mail postage prepaid, and the service shall be deemed to have been effected at the time of the attendance for that purpose at the office of the solicitor. [O. 331.]

Service in actions for foreclosure or sale on judgment creditor of mortgagor

549. In any action by a mortgagee, or other person having a charge on real property, for foreclosure or sale, to which action any judgment creditor of the mortgagor or of the person whose property is liable to the charge, is a defendant, personal service upon such defendant shall not be necessary if service is effected upon his solicitor in the action in which the judgment has been recovered. [O. 332.]

Substituted service

550. Where personal service of any document is required and it is made to appear to a judge that prompt personal service cannot be effected, the judge may make such order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise as may be just, or may dispense with service. [24; E. 1017; O. 334.]

TIME.

Meaning of month

551. Where by these Rules or any judgment or order time for doing any act or taking any proceedings is limited by months, and where the word "month" occurs in any document which is part of any legal procedure under these Rules, such time shall be computed by calendar months, unless otherwise expressed. [E. 961; O. 342.]

Holidays

552. Where any period less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding, holidays, as defined by *The Interpretation Act* shall not be reckoned in the computation of such period. [546; E. 962; O. 343.]

Clear days

553. Where a number of days not expressed to be "clear" days is prescribed by the Rules or practice of the court, the same shall be reckoned exclusively of the first day and inclusively of the last day.

(2) Where the days are expressed to be "clear" days or where the term "at least" is added, both days shall be excluded. [545; E. 972; O. 344.]

554. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed, such act or proceeding shall so far as regards the time of doing or taking the same be held to be duly done or taken if done or taken on the day on which the offices shall next be open. [547; E. 963; O. 345.] Time expiring on Sunday, etc.

555. The day on which an order that a party do give security for costs is served and the time until and including the day on which the security is given shall not be reckoned in the computation of the time allowed for taking any proceeding in the action. [E. 966; O. 346.] Time for giving security for costs, when not to be reckoned

556. The court or a judge may enlarge or abridge the time appointed by these Rules or any Rules relating to time or fixed by any order for doing any act or taking any proceeding upon such terms as may be just; and such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed. [548; E. 967; O. 353.] Enlargement or abridgment of time

557. The time for delivering, amending or filing any pleading, answer or other document may be enlarged by consent in writing without application to the court or a judge. [E. 968; O. 347.] Enlargement of time by consent

558. Unless the court or a judge gives leave to the contrary there shall be at least two clear days between the service of notice of motion or petition and the day for hearing. [460 & 475; E. 700 & 737; O. 348.] Two clear days' notice

559. Service of pleadings, notices, orders and other proceedings shall, unless otherwise ordered, be effected on Saturdays before one o'clock in the afternoon and on other days before the hour of five o'clock in the afternoon. Service effected after five o'clock on any week day except Saturday shall be deemed to have been effected on the following day. Service effected after one o'clock on Saturday shall be deemed to have been effected on the following Monday. [544; E. 971; O. 349.] Time for service of pleadings, etc.

560. An attendance on a motion in chambers or on an appointment before a master or other officer for half an hour next immediately following the time of the return thereof shall, in the absence of the opposite party, be deemed a sufficient attendance. [O. 350.] Half an hour's attendance on a motion in chambers or appointment is sufficient

561. Unless otherwise directed by the court or a judge, no trials shall be held or contested motions heard during vacation and the time of vacation shall not be reckoned in the computation of the times appointed by order or allowed by these Rules for amending or delivering any pleading. [549; E. 965; O. 352.] Vacation, time of, when not to be reckoned

562. The vacations of the Supreme and District Courts shall be: Vacations in Supreme and District Courts

(*a*) The long vacation to consist of the months of July and August;

(*b*) The Christmas vacation to consist of the period from the 22nd day of December to the 6th day of the following January, both days inclusive. [549; E. 948; O. 354.]

Change of solicitors

563. A party suing or defending by a solicitor may change his solicitor by filing in the office in which the action or matter is being carried on and serving upon the opposite party or his solicitor notice of such change; and until such notice is filed and served the former solicitor shall be considered as the solicitor of the party. [11; E. 44; O. 335.]

FORM OF JUDGMENTS AND ORDERS.

Judgments and orders to be divided into paragraphs

564. Judgments and orders shall be divided into convenient paragraphs and such paragraphs shall be numbered consecutively. [O. 620.]

Liberty to apply need not be reserved

565. It shall not be necessary in any judgment or order to reserve liberty to apply, but any party may apply to the court from time to time as he may be advised. [O. 622.]

Date of judgment and name of judge giving

566. Every judgment or order shall show on its face the day of the week, month and year on which it was given or made, and if given or made by an officer or by a judge or judges shall show the name or names of such judge or judges. [467; E. 708; O. 623 & 629.]

Settling minutes and variation thereof

567. Judgments and orders of the Appellate Division of the Supreme Court shall be settled by the registrar at the place where the case is argued or the order made.

(2) Judgments and orders of a single judge shall be settled by the clerk or deputy clerk of the court for the judicial district within which the judgment is pronounced or order made.

(3) The minutes of any judgment or order when so settled may be varied by the court or a judge on the application of either party. [O. 625.]

Appointments to settle minutes

568. Notice of settling minutes of a judgment or order shall not be given unless by direction of the officer by whom the judgment or order is to be settled, nor until the proposed minutes of the judgment or order have been prepared by or delivered to the officer by whom the same are to be settled; the notice shall be by an appointment signed by him, a copy whereof shall be served. The proposed minutes shall remain in his office for inspection until settled or passed and any party may take a copy thereof. [O. 626.]

Procedure where party makes default

569. Where a notice is given to settle minutes of a judgment or order and the party served attends thereon, but the party giving the notice does not attend or is not prepared to proceed, the officer settling the judgment or order may proceed *ex parte* to settle the minutes or may in his discretion order the party giving the notice to pay the other party the costs of his attendance; or if a party served asks for delay, the officer may grant the delay on such terms as he thinks reasonable as to payment of costs or otherwise. [O. 627.]

Signature of judgments and orders

570. Judgments or orders of the Appellate Division of the Supreme Court shall be signed by the registrar or acting registrar thereof.

(2) Judgments and orders of a court other than the Appellate Division of the Supreme Court and judgments by default shall be signed by the clerk or deputy clerk of the court in whose office the action or proceeding was commenced, unless otherwise ordered.

(3) Orders made by a judge or master in chambers may be signed by the chamber clerk or by the clerk or deputy clerk of the court in whose office the action or proceeding was commenced, but the judge making an order may himself sign the same.

(4) Orders made by an officer sitting in chambers shall be signed by him. [O. 628, 634.]

Date of judgment or order pronounced or directed by judge

571. Every judgment or order pronounced or directed by the court or a judge shall be dated as of the day on which such judgment or order is pronounced or directed and shall take effect from that date unless otherwise directed. [328 & 329; E. 571; O. 629.]

Signing of judgment

572. In all cases the judgment pronounced by the court may be signed forthwith, unless otherwise ordered. [O. 630.]

573. Where judgment may be signed upon the filing of any affidavit or production of any document, the officer shall examine the affidavit or document produced and if the same be regular and contain all that is by law required, he shall enter judgment accordingly. [331; E. 574; O. 631.]

574. Where judgment may be signed pursuant to any order or certificate, the production of such order or certificate shall be a sufficient authority to the officer to sign judgment accordingly upon the condition, if any, specified by such order or certificate. [332; E. 575; O. 632.]

Entry of judgment

575. Every judgment or order shall be entered by filing a true copy thereof with the officer issuing the same, who shall make a note of such entry and the date thereof at the foot of such judgment or order. [327; E. 569; O. 635, 636, 637.]

Orders obtained on condition

576. Where a judgment or order is obtained upon a condition and the condition is not complied with the judgment or order shall be deemed to have been waived or abandoned as far as the same is beneficial to the person obtaining the same, and any person interested in the matter on the breach or non-performance of the condition may either take such proceedings as the judgment or order in such case may warrant, or such proceedings as might have been taken if the judgment or order had not been made, unless the court or a judge shall otherwise direct. [337; E. 580; O. 638.]

ENFORCEMENT OF JUDGMENT AND ORDERS.

WRITS OF EXECUTION.

Interpretation "judgment creditor"

577. (*a*) "Judgment creditor" shall mean the party or person who is entitled to receive payment or to enforce a judgment or order.

"Judgment debtor"

(*b*) "Judgment debtor" or "debtor" shall mean the party or person to make payment under any judgment or order or against whom the same may be enforced. [O. 835.]

Orders enforceable like judgments

578. An order of the court or a judge may be enforced against all persons bound thereby in the same manner as a judgment to the same effect. [350; E. 602.]

Enforcement of judgment for payment into court

579. Any judgment for the payment of money into court may be enforced by any mode by which a judgment for the payment of money to a person may be enforced. [E. 582; O. 839.]

Payment into court of moneys due to infants, etc.

580. Where money other than for costs is recovered by or on behalf of an infant or a person of unsound mind by his guardian, next friend or committee or on behalf of a class, the same shall, unless otherwise ordered, be paid into court subject to further order, and no payment to the guardian, next friend or committee of moneys due to such infant or person of unsound mind or person having the conduct of proceedings on behalf of the class, otherwise than for the costs of the action, shall be a valid discharge as against the infant or person of unsound mind or the class. [O. 840.]

Endorsement on writ of execution for levying moneys due to infants, etc.

581. Every writ of execution for the levying of moneys directed to be paid into court shall be endorsed by the officer issuing the same with the following notice: "All moneys made under this execution, other than costs, are to be paid into court by the sheriff." [O. 840.]

Judgment for conditional relief

582. Where a judgment is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency and demand made upon the party against whom he is entitled to relief, apply to the court or a judge for leave to issue execution against such party. The court or judge may order that execution issue accordingly or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any way in which a question arising in an action may be tried. [342; E. 587; O. 841.]

Time to sue out *fi. fa.* to enforce payment of money or costs

583. Every person to whom any sum of money or any costs are payable under a judgment shall be entitled immediately to issue one or more writs of *fieri facias* to enforce payment thereof, subject nevertheless as follows:

(*a*) If the judgment is for payment within a period therein mentioned the writ shall not be issued until after the expiration of such period unless otherwise ordered.

(*b*) The court or judge may at or after the time of giving judgment stay execution for such period as shall seem just, or may remove or extend any stay already granted. [338, 364; E. 595; O. 843.]

Writs to be against both goods and lands

584. Every writ of *fieri facias* shall be issued against both the goods and lands of the debtor. [364; O. 844.]

Venditioni exponas

585. A writ of *venditioni exponas* may be issued against goods alone or against lands alone. [E. 617; O. 845.]

586. A judgment for the recovery or for the delivery of the possession of land may be enforced by writ of possession. [339; E. 583; O. 846.] Writ of possession

587. Where, by any judgment any person therein named is directed to deliver up possession of any lands to some other person on or at any specified time after being served with the judgment, the person prosecuting the same shall, without any further order for that purpose, be entitled to issue a writ of possession on filing an affidavit showing due service of the judgment and that the same has not been obeyed. [371; E. 645; O. 847.]

588. A writ of possession shall have the effect of a writ of assistance as well as of a writ of *habere facias possessionem*. [O. 848.]

589. Upon a judgment for the recovery of land and money, whether for costs or otherwise, there may be either one writ or separate writs of execution for the recovery of possession and for the money at the election of the party entitled to recover the same. [372; E. 646; O. 849.] Separate writs for possession and money if desired

590. Where judgment has been entered for the recovery of specific property other than land or money, or the value thereof, the judgment creditor, where recovery or delivery of the property *in specie* is desired, shall be entitled to a writ of delivery and, in case of the property not being returned, a judge may order that the judgment debtor be arrested and detained in prison until he complies with the terms of the writ and also that the goods and chattels of the judgment debtor to double the value of the property in question be taken and kept until the further order of the court to enforce obedience to the writ, or that a writ of sequestration may issue; or, at the option of the judgment creditor, the judge may order the sheriff to make of the judgment debtor's goods the value of such property, but the judgment creditor shall, either by the same or by a separate writ of execution (to be issued in the ordinary manner) be entitled to have made of the judgment debtor's goods and lands the damages and costs awarded and interest. [340, 370; E. 647, 648; O. 852.] Writ of delivery

591. A judgment requiring any person to do any act other than the payment of money, or to abstain from doing anything, may be enforced by writ of attachment or by committal. [341; E. 585; O. 853.] Writ of attachment or committal

592. A writ of attachment shall not be issued without the leave of the court or a judge on notice to the person against whom the attachment is to be issued. [E. 621; O. 855.] Writ of attachment not to issue without leave

593. Writs of sequestration shall be directed to the sheriff unless otherwise ordered. [O. 860.] Writ of sequestration

594. In case an order has been made by the court or a judge that a person be committed to gaol for contempt of court and there detained and imprisoned until such person shall have Relief of persons committed for contempt

purged his said contempt, if it be made to appear that such person is in actual custody under such order, the court or judge may, upon such notice as may be directed, modify and change the order and limit the term of imprisonment under such order or grant such other relief as may in the nature and circumstances of the case seem just, but any relief that may be granted to any such person shall not relieve him from any civil liability to any other person. [O. 861.]

Enforcement by execution against corporate property by attachment or by writ of sequestration

595. Any judgment against a corporation wilfully disobeyed may, by leave of a judge, be enforced by execution against the corporate property or by attachment against the directors or other officers thereof or by writ of sequestration against their property. [Alta. 354; E. 609; N.B. 524.]

Enforcement of *mandamus*

596. If a *mandamus* granted in an action or otherwise or a mandatory order, injunction or judgment for the specific performance of any contract is not complied with, the court or a judge, besides or instead of proceedings against the disobedient party for contempt, may direct that the act required to be done may be done so far as practicable by the party by whom the judgment has been obtained or some other person appointed by the court or judge, at the cost of the disobedient party; and, upon the act being done, the expenses incurred may be ascertained in such manner as the court or judge may direct and execution may issue for the amount so ascertained and costs. [353; E. 608; O. 862.]

Execution within six years

597. As between the original parties to a judgment or order, execution may issue at any time within six years from the date of the judgment or order. [348; E. 600; O. 863.]

Execution by leave of court

598. Where the six years have elapsed or any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to a judge for leave to issue execution accordingly or to amend any execution already issued, and such judge may make an order to that effect or may order that any issue or question necessary to determine the rights of the parties shall be tried in any way in which a question in an action may be tried. 348; E. 601; O. 684; N.B. 146, 31.]

Execution in case of persons not parties

599. Any person not being a party to a cause or matter who obtains any order or in whose favour any order is made shall be entitled to enforce obedience to such order by the same process as if he were a party; and any person not being a party against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party. [351; E. 604; O. 865.]

Praecipe for writ

600. A writ of execution shall be issued only upon *praecipe*. [344; E. 590; O. 866.]

Date

601. Every writ of execution shall bear date of the day on which it is issued. [346; E. 592; O. 867.]

Endorsements on writ

602. Every writ of execution shall be endorsed with the name and place of abode or office of business of the solicitor issuing

the same, and if he issues the same as agent for another solicitor, the name and place of abode of such other solicitor shall also be endorsed; where a solicitor is not employed, the writ shall be endorsed with a memorandum stating that the same has been issued by the plaintiff or defendant in person with the name of the city, town or other place, and also the name of the street and number, if any there be, of the house where he resides. [E. 591; O. 868.]

603. Every writ of execution for the recovery of money shall be endorsed with a direction to the sheriff or other officer or person to whom the writ is directed to levy the money really due and payable and sought to be recovered under the judgment, stating the amount and also to levy interest thereon, if sought to be recovered, at the rate provided by law from the time when the judgment was entered:

Provided that in cases where there is an agreement between the parties that a higher rate of interest shall be secured by the judgment, the endorsement may be to levy at the rate so agreed. [347; E. 594; O. 869.]

Currency of writ of execution

604. Unless otherwise provided by any Statute, and except for the purposes of such Statute, every writ of execution shall remain in force so long as the judgment on which it is issued remains in force. [346; E. 598; O. 872.]

Renewal of writ

605. Every writ of execution issued or renewed prior to the first day of September, 1914, may be, before the expiration of two years from the date of such issue, renewed in the manner hereinafter provided and upon such renewal such writ shall, except as in the next preceding Rule provided, remain in force so long as the judgment upon which it was issued remains in force. [346; E. 598; O. 872.]

606. When, for the purposes of any Statute, a writ of execution requires to be renewed, such writ or the renewed writ may at any time before the time when it requires to be renewed, be so renewed by being marked in the margin or at the foot with a memorandum signed by the clerk to the effect following: "Renewed from the day of....." [346; E. 598; O. 872.]

Endorsement of date of receipt by sheriff

607. The sheriff shall, upon the receipt of a writ of execution or renewal thereof, endorse thereon the year, the month, the day, the hour and minute when same was received.

Poundage, etc.

608. Upon every execution there may be levied, in addition to the sum recovered by the judgment, the poundage, fees, expenses of execution and interest upon the amount recovered. [347 & 373; E. 593; O. 871.]

Date of binding goods

609. Subject to the provisions of any Statute a writ of execution shall bind the goods of the judgment debtor from the time of the delivery thereof for execution to the sheriff of the judicial district within which the goods are situate, but not so as to prejudice the title to such goods acquired by any person in good faith and for valuable consideration, unless such person had,

at the time when he acquired his title, notice that such writ had been delivered to the sheriff and remained in his hands unexecuted. [356.]

Seizure of shares

610. Shares in any corporation having transferable shares may be seized under execution and sold thereunder in the manner hereinafter provided. [O. Statutes, 1909, c. 47, s. 10.]

611. The sheriff on being informed on behalf of the execution creditor that the execution debtor has such shares and on being required to seize the same shall forthwith serve a copy of the execution, together with a notice that all the shares of the execution debtor are seized thereunder upon the corporation at its place of business within the province where transfers of shares may be notified and entered by the corporation so as to be valid as regards the corporation; and from the time of service the seizure shall be deemed to be made and no transfer of the shares by the execution debtor shall be valid unless and until the seizure has been discharged; and every seizure and sale made under the execution shall include all dividends, premiums, bonuses or other pecuniary profits upon the shares seized, and the same shall not, after notice as aforesaid, be paid by the bank or company to anyone except the person to whom the shares have been sold. [O.S. 1909, c. 47, s. 11.]

612. Where any such share is sold the sheriff shall, within ten days after the sale, serve upon the corporation at the same place as in the next preceding Rule mentioned a copy of the execution with his certificate endorsed thereon certifying the sale and the name of the purchaser who shall have the same rights and be under the same obligations as if he had purchased the shares from the execution debtor at the time of the service of notice of the writ of execution. [ib. s. 13.]

613. Nothing in these Rules shall affect any remedy which the execution creditor might, without these Rules, have had against any such shares or the dividends, premiums, bonuses or other pecuniary profits in respect thereof; and the provisions of the next preceding Rules shall apply to such remedy in so far as they can be applied thereto. [ib. s. 14.]

Seizure of equitable interests in personal property

614. The sheriff may seize and sell any equitable or other right, property, interest or equity of redemption in or in respect of any goods or other personal property, including leasehold interests in land, of the execution debtor, and the sale shall convey whatever equitable or other right, property, interest or equity of redemption the execution debtor had or was entitled to in or in respect of the goods or other personal property at the time of the delivery of the execution to the sheriff for execution. [358; O.S. ib. s. 17.]

Seizure of money and securities for money

615. The sheriff may seize any money or bank notes, including any surplus of a former execution against the debtor, and any cheques, bills of exchange, promissory notes, bonds, mortgages or other securities for money belonging to the person against whom the execution has been issued and may hold such cheques,

bills of exchange, promissory notes, bonds or other securities for money as security for the amount directed to be levied or so much thereof as has not been otherwise levied or raised; and the sheriff may sue in his own name for the recovery of the sums secured thereby and for the enforcement of the security. [359; O.S. ib. s. 18.]

Transference of securities by sheriff to execution creditor

616. The transference by the sheriff to the execution creditor or creditors of any security for money seized under the next preceding Rule shall discharge the sheriff to the extent of the amount due thereon and secured thereby. [361.]

Sheriff, when bound to sue on security for money

617. A sheriff shall not be bound to sue any person liable upon such cheque, bill of exchange, promissory note, bond, mortgage or other security, unless the party who sued out the execution furnishes sufficient security to indemnify the sheriff from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof, and the expenses of the security not exceeding $5 may be deducted from any money recovered in the action. [359; O.S. ib. s. 21.]

Sheriff, when bound to seize property in possession of third party claimant

618. A sheriff shall not, without written instructions and a sufficient bond of indemnity, be obliged to seize property which is in the possession of a third person claiming the same and not in the possession of the debtor against whose property the execution was issued.

(2) The instructions shall specify the property in such a way as to enable the sheriff to identify it.

(3) The bond shall be assignable to the claimant and shall be conditioned that the persons executing the same shall be liable for the damages, costs and expenses which the sheriff or the claimant may be put to by the seizure and subsequent proceedings, including interpleader proceedings, if any, which he does not recover from other persons who ought to pay the same.

(4) If the sheriff is not satisfied with the bond offered the matter in difference shall be determined by a judge.

(5) The taking of a bond of indemnity under this Rule shall not affect the right of the sheriff to apply for relief by interpleader. [O.S. ib. s. 22.]

Seizure of registered mortgage or encumbrance

619. The sheriff may seize, under a writ of execution, any registered mortgage or encumbrance in favour of the execution debtor, whether upon lands or goods, by delivering a notice in writing of such seizure to the registrar or clerk, in whose office such mortgage or encumbrance is registered, but no such mortgage or encumbrance shall be affected or changed by any writ of execution until delivery of such notice. [360.]

620. The mortgagor or person liable to pay the moneys secured by a mortgage or encumbrance seized, as hereinbefore provided, shall after such seizure, pay to the sherriff all moneys then or thereafter payable, and any payment made to the execution debtor after notice or actual knowledge of such seizure shall be ineffective as against the sheriff and the execution creditor. [360.]

Delivery of inventory to owner, etc.

621. Where any goods or chattels are seized in execution, under a writ of execution, the sheriff shall, on request, deliver to the owner, his agent or servant, an inventory thereof before they are removed from the premises on which they have been so seized. [O. 875.]

Sale of personal property after notice

622. Unless a judge otherwise orders, personal property seized under a writ of execution shall be sold by public auction after at least ten days' notice.

(2) The notice of sale shall be posted in the sheriff's office and in at least five public places in the locality where the property is to be sold; provided that if the property consists of goods of a perishable nature or is of such a character as not to allow of a delay of ten days, the sale may be made on such notice as the nature of the case will permit. [357; O. 875.]

Return where goods remain in sheriff's hands unsold

623. The sheriff shall, where goods or lands seized by him under a writ of execution remain unsold in his hands for want of buyers, state in his return of "goods or lands on hand for want of buyers" the time and place, when and where such goods or lands were offered for sale by him and the names of at least three persons who were present at the time of such attempted sale, if so many were present, but if so many were not present then the names of those who were present, if any, and that there were no others; and if no person was present, then he shall state that fact. [O. 876.]

Lands not to be sold within a year

624. The sheriff shall not sell lands under a writ of execution within less than twelve months from the day on which the writ is delivered to him, unless a judge under special circumstances shall otherwise order. [364; O. 877 & 878.]

No sale of lands until return of *nulla bona*

625. Unless a judge otherwise orders, lands shall not be sold under any writ of execution by the sheriff until after he has made a return of *nulla bona* in whole or in part. [O. 879.]

Expenses of advertising lands

626. If the amount authorized to be made and levied under a writ of execution is made and levied thereunder out of goods and chattels, the persons issuing the writ shall not be entitled to the expenses of any advertising of lands thereunder. [368; O. 880.]

Advertisement of lands

627. No lands shall be sold under a writ of execution by the sheriff until he has given such notice by advertising and otherwise as a judge shall direct. [364; O. 882 & 1268.]

Adjournment of sale

628. Any sale by the sheriff of goods or lands may be adjourned as may be necessary. [365.]

Endorsements and return of certificates thereof

629. The sheriff to whom a writ of execution is directed shall endorse on such writ all necessary returns thereto in respect of his proceedings thereon as to goods and chattels, and shall return a certificate of such endorsements in lieu of the writ.

Issue of writ of *venditioni exponas*

630. Upon a return by the sheriff of goods or lands on hand for want of buyers a writ of *venditioni exponas* may be issued

for the sale of such goods, or lands, as the case may be, and the original writ of execution shall remain in force for the residue. [O. 884.]

Return of writ within six days after demand

631. Any party entitled by the practice of the court to call for the return of a writ of execution may make a demand in writing upon the sheriff therefor, and the sheriff shall thereupon make a return to the writ within six days after the demand has been made. [E. 706; O. 885.]

Filing of certificate of return

632. The sheriff shall file the certificate of return in the office from which the writ issued and the officer with whom it is filed shall endorse thereon the day and hour of such filing. [O. 886.]

Failure to make return

633. If the sheriff fails to make the return, a judge may make an order for the committal of the sheriff or such other order as may be just. [E. 706; O. 890 & 894.]

DISCOVERY IN AID OF EXECUTION.

Examination of judgment debtors before a clerk, etc.

634. Where a judgment is for the recovery by or payment to any person of money or costs, the judgment creditor may without an order examine the judgment debtor upon oath before a clerk or deputy clerk, or by the order of a judge, before any other person to be named in such order touching his estate and effects and as to the property and means he had when the debt or liability which was the subject of the cause or matter in which judgment has been obtained against him was incurred, or, in the case of a judgment for costs only, at the time of the commencement of the cause or matter, and as to the property and means he still has of discharging the said judgment, and as to the disposal he has made of any property since contracting such debt or incurring such liability, or, in case of a judgment for costs only, since the commencement of the cause or matter, and as to any and what debts are owing to him. [380; E. 610; O. 900.]

Examination of officers of corporations

635. Where the judgment is against a corporation the judgment creditor may in like manner examine any of the officers of such corporation upon oath touching the names and residences of the members of the corporation, the amount and particulars of stock or shares held or owned by each member and the amount paid thereon, and as to what debts are owing to the said corporation, and as to the estate and effects of the corporation and as to the disposal made by it of any property since contracting the debt or liability in respect of which the said judgment was obtained or, in the case of a judgment for costs only, since the commencement of the cause or matter. [381; E. 610; O. 902.]

Examination of certain persons as to a debtor's means

636. Where judgment has been obtained as aforesaid a judge, on the application of the judgment creditor, may order any present or former clerk or employee of the judgment debtor, or any person, or the officer or officers of any corporation to whom the debtor has made a transfer of his property or effects,

exigible under execution, since the date when the liability or debt which was the subject of the action in which judgment was obtained, was incurred or, where the judgment is for costs only, since the commencement of the cause or matter, to attend before some person to be named in the order and submit to be examined under oath as to the estate and effects of the debtor and as to the property and means he had when the debt or liability aforesaid was incurred, or, in the case of a judgment for costs only, at the date of the commencement of the cause or matter, and as to the property or means he still has of discharging the said judgment and as to the disposal he has made of any property since contracting such debt or incurring such liability and as to any and what debts are owing to him. The examination shall be for the purpose of discovery only and no order shall be made on the evidence given on such examination. [380, 381; E. 610; O. 903.]

Examination of persons in possession of property of judgment debtor

637. Where the judge is satisfied that there is reasonable ground for supposing that any person or corporation is in possession of any property of the judgment debtor exigible under execution he may order such person or any officer of the said corporation to attend and submit to examination *viva voce* upon oath before some person to be named in the order, touching the property and means of the judgment debtor. [O. 904.]

Compelling attendance

638. A person liable to be examined under any of the preceding Rules may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined as in the case of a party or person subject to examination for discovery before judgment. [382; O. 905.]

Service of appointment and order

Fees and conduct of examination

639. A person liable to be examined may be served with an appointment signed by the person before whom the examination is to be held and, where the examination is to take place under an order, also with a copy of the order; such service shall be made at least forty-eight hours before the time appointed for the examination. The person to be examined shall be paid the same fees as a witness and the examination shall be conducted in the same manner as an oral examination of an opposite patry. [382; O. 906.]

Committal of debtor for nonattendance, refusal to answer

640. Where the judgment debtor does not attend, does not allege a sufficient reason for not attending or, if attending, refuses to disclose his property or his transactions or does not make satisfactory answers respecting the same, the judge may order the debtor to be committed to gaol until he shall purge his contempt. [O. 907.]

Committal of officer of corporation

641. Where an officer of a corporation does not attend and does not show a sufficient excuse for not attending, or, if attending, refuses to disclose any of the matters in respect of which he may be examined, the judge may order him to be committed to gaol until he shall purge his contempt. [O. 908.]

642. Where, under the preceding Rules, a person has been committed to gaol, a judge may, upon such notice as may be directed, discharge or modify the order committing him to gaol, but the order shall not relieve such person from any civil liability to any other person. [O. 909.] Relief of persons committed

643. Where a difficulty arises in or about the execution or enforcement of a judgment, the judgment creditor interested may apply to a judge who may make such other order thereon for the attendance and examination of any party or person as may seem just. [381; E. 611; O. 910.] Examination where difficulty arises

644. The costs of any examination in aid of execution, and of any attachment of debts, shall be in the discretion of a judge. [383; E. 612; O. 1139.] Costs

645. The filing with the sheriff of a certificate of the amount of any costs of or subsequent to judgment payable by the execution debtor to the execution creditor shall, upon a direction so to do being endorsed upon the original writ of execution, be a sufficient authority to the sheriff to levy such costs and interest thereon under the said writ. [E. 596.] Authority to levy costs

STOP ORDER.

646. Any person claiming to be interested in any money, stock or securities in court, or claiming to have the same applied towards the satisfaction of any judgment or execution against the person to whose credit such money, stock or securities stand, may, upon an affidavit verifying his claim, apply to a judge *ex parte* for an order directing that such money, stock or securities shall not be paid out or dealt with except upon notice to him. Stop orders

(2) The person obtaining any such order may be ordered to pay any costs, charges and expenses occasioned thereby to any person interested in the money, stock or securities to which such order relates. [O. 82.]

CHARGING ORDERS.

647. Where a solicitor has been employed to prosecute or defend any cause, matter or proceeding, the court in which the cause, matter or proceeding has been heard or is pending, or a judge thereof, may declare such a solicitor or his personal representative to be entitled to a charge upon the property of whatever nature, tenure or kind, recovered or preserved through the instrumentality of such solicitor, and upon such declaration being made, such solicitor or his personal representatives shall have a charge upon and against and a right to payment out of the property so recovered or preserved for the taxed costs, charges and expenses of or in reference to such cause, matter or proceeding; and all conveyances and acts done to defeat or which may operate to defeat such charge or right shall, unless made to a *bona fide* purchaser for value without notice, be absolutely void and of no effect as against such charge or right. Order for charge in favour of solicitor on property recovered or preserved

(2) The court or judge may make such order for taxation of such costs, charges and expenses and for the raising and payment of the

the same out of the said property as may seem just; but no such order shall be made where the right to recover payment of such costs, charges and expenses is barred by any *Statute of Limitations*. [O. 1129.]

GARNISHEE PROCEEDINGS.

Garnishee summons on affidavit

648. Any plaintiff in an action for a debt or liquidated demand before or after judgment and any person who has obtained a judgment or order for the recovery or payment of money may issue a garnishee summons in the form or to the effect of form C in the schedule hereto. Such summons shall be issued upon the plaintiff or judgment creditor, his solicitor or agent, filing an affidavit:

(*a*) Showing the nature and amount of the claim or judgment against the defendant or judgment debtor and swearing positively to the indebtedness of the defendant or judgment debtor to the the plaintiff or judgment creditor.

(*b*) Stating to the best of the deponent's information and belief that the proposed garnishee (naming him) is indebted to such defendant or judgment debtor and is within Alberta and giving the grounds of such information and belief.

(*c*) Stating in the case of the garnishee's having more than one office or place of business, the place at which or office through which such indebtedness is alleged to be payable.

(*d*) Stating further, where the alleged debt sought to be attached is for wages or salary, the residence of the defendant or judgment debtor and the nature of his occupation in the service of the garnishee at the time the alleged debt was incurred and whether or not the debt sued for or in respect of which the judgment was recovered, was contracted for board and lodging.

(*e*) If the deponent is unable to give all the particulars required by the two next preceding paragraphs, it will be sufficient if he give such particulars as are within his knowledge and state that after reasonable inquiry he has been unable to ascertain the other particulars.

(2) The clerk shall endorse on the summons the particulars required to be stated in the affidavit by clauses (*c*) and (*d*). [384; E. 622; O. 911.]

Service of garnishee summons and effect thereof

649. Service of such summons on the garnishee shall bind the debt, if any, due or accruing due from the garnishee to the defendant or judgment debtor the particulars of which are given in the affidavit required by the next preceding Rule, or so much thereof as shall be necessary to satisfy the claim of the plaintiff or judgment creditor and the probable costs; such costs shall in cases of doubt be fixed by a judge upon application made to him thereafter.

(2) The garnishee summons may be served whether on the garnishee, defendant or judgment debtor, in any way that a statement of claim may be served; and the provisions relating to service of a statement of claim shall apply to service of a garnishee summons.

(3) A copy of the garnishee summons shall be served on the

defendant or judgment debtor (or his solicitor) within twenty days after service on the garnishee or such further time as a judge *ex parte* may order.

(4) If the garnishee has more than one office and it appears from the affidavit filed that moneys alleged to be due to the defendant are or may be payable through some other office of the garnishee than that at which the garnishee summons is served, and a notice to that effect is served along with the garnishee summons, the person in charge of the office at which the garnishee summons and the notice are served shall forthwith notify the person in charge of the office at which, according to the notice, moneys alleged to be due to the defendant are or may be payable, and any such moneys shall be deemed to have been attached as and from the time the notice of the garnishee summons is actually received at the office through which such moneys are payable, or within forty-eight hours after the service of the garnishee summons, whichever shall be the shorter period. [385; E. 622, 623; O. 913.]

Garnishee deemed indebted notwithstanding fraudulent assignment

650. A debt shall be deemed to be due to the defendant or judgment debtor within the meaning of the next preceding Rule, though it has been assigned, charged or encumbered by the defendant or judgment debtor, if the assignment, charge or encumbrance is fraudulent as against the plaintiff or judgment creditor, as the case may be. [O. 912.]

Order for payment out of money garnisheed

651. No order shall be made against the garnishee or for payment out of any money paid into court by the garnishee until at least ten days after the service of the said summons on the defendant or judgment debtor and on the garnishee nor, when a garnishee summons issues prior to judgment, until the plaintiff shall have recovered a judgment against the defendant.

Application to set aside summons or for speedy determination

(2) The defendant or judgment debtor or the garnishee or any person claiming to be interested in the moneys attached, may apply to a judge to set aside the garnishee summons or for an order for the speedy determination of any question in the action or in the garnishee proceedings or for such other order as may be just.

(3) No money paid into court under these proceedings shall be paid out unless on the written consent of the parties interested, except by order of the court or judge, which order may be made *ex parte* or on such notice as the judge may direct. [386.]

Costs of garnishee paying money into court

652. A garnishee paying money into court shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding $5) except when the debt due from him to the defendant or judgment debtor is larger than the amount of the plaintiff's claim and costs, in which case the garnishee may deduct such costs and disbursements out of the balance in his hands, but if such balance is not sufficient to cover such disbursements and costs he may deduct the deficiency from the amount to be paid into court. [387.]

Order for execution against garnishee

653. If the garnishee does not pay into court the amount due from him to the debtor or an amount sufficient to satisfy the claim or judgment and the probable amount of the costs

of the plaintiff or judgment creditor and does not dispute the debt due or claim to be due from him to such debtor, then the judge may, after judgment has been entered against the primary debtor or at once when the garnishee summons is founded on a judgment already recovered, order that judgment be entered up against the garnishee and that execution issue and it may issue accordingly to levy the amount due or so much thereof as may be sufficient to satisfy the judgment or order. [389; E. 624; O. 914.]

Issue where garnishee disputes liability

654. If the garnishee disputes his liability or claims that the debt is or may be not attachable he shall enter with the clerk within the time specified in the summons or such further time as the judge may allow an answer by way of a statement showing the grounds on which he disputes liability or claims that the debt is or may be not attachable. After which, on application of the plaintiff or judgment creditor or any other person interested, on two days' notice given to the garnishee the judge may fix a time and place for summarily determining the question of liability or whether the debt is attachable, as the case may be; or may order that any issue or question necessary for determining such liability or whether the debt is attachable be tried and determined in any manner in which any issue or question in any action may be tried and determined and may direct who shall be the parties to such issue or question, and any determination under this section, whether summarily or otherwise, shall form a judgment of the court and may be enforced as such. [390; E. 625; O. 916.]

Default in proceeding after issue of garnishee

655. If within two months after the answer of the garnishee the plaintiff or judgment creditor does not proceed to have the question of liability determined as hereby provided the garnishee may apply for an order to set aside the garnishee summons. [391.]

Order for third person to appear

656. Whenever it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to some third person or that any third person is beneficially entitled to or interested in or has a lien or charge upon it the judge may require such third person to be notified to appear and state the nature and particulars of his claim in respect of such debt. [392; E. 626; O. 920.]

Proceedings as to claims of third persons

657. After hearing the allegations of any such third person or if he shall fail to appear in accordance with notice the judge may order execution to issue against the property of the garnishee to levy the amount due to the plaintiff or judgment creditor or any issue or question to be tried or determined in manner aforesaid and may bar the claim of such third person or make such other order as the judge shall think fit upon such terms, in all cases, with respect to the interest, lien or charge, if any, of such third person and with respect to costs, as the judge shall think just and reasonable. [393; E. 627; O. 920.]

Garnishee discharged by payment

658. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge

to him against the debtor to the amount paid or levied, although such proceeding may be set aside or the judgment or order reversed or the plaintiff fail in his action. [394; E. 628; O. 921.]

659. The garnishee shall not be liable for the costs of the proceedings unless and in so far only as occasioned by setting up an answer which he knew or ought to have known was untenable. [395.] How far garnishee liable for costs

660. An execution shall not in any case issue to levy the money owing from any garnishee until and then so far only as such money shall become payable. [396; O. 915.] Money not yet payable

661. No wages, salary or other sums payable or agreed to be paid by his ordinary or former employer to any person in the active military or naval service of the Crown shall be liable to seizure or attachment and no debt due or accuring due to a mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages or salary shall be liable to seizure or attachment unless the said debt exceeds the sum of $25 and then only to the extent of the excess: 1914, C. 2, s. 2. Debt due to mechanics, etc.

Provided that nothing in this Rule contained shall apply to any case where the debt sued for or in respect of which the judgment was recovered has been contracted for board or lodging. 1914, c. 2, s. 2.

(2) If the said amount of $25 or any portion thereof is paid into court it shall not be necessary for the debtor to claim the same, but he shall be entitled to have it paid out to him at any time on application to the clerk and on the fiat of a judge, but in the event of no such application being made until the expiration of two months after such payment in or after judgment is recovered against the debtor, whichever is later, the judgment creditor shall be entitled on application to the judge to have the said sum or so much thereof as may be sufficient to satisfy his judgment paid out to him. [397]

(3) If any moneys so payable to a person in the military or naval service of the Crown are paid into court, the clerk shall pay them back to the person who paid them in upon receiving the fiat of a judge. 1914, c. 2, s. 2.

RECEIVER.

662. Where an order is made directing a receiver to be appointed, unless otherwise ordered the person to be appointed shall first give security to be approved by a judge, duly to account for what he shall receive as such receiver and to pay the same as the court or judge shall direct and the person so to be appointed shall, unless otherwise ordered, be allowed a proper salary or allowance. [412; E. 672.] Security and salary of receiver

663. When a receiver is appointed with a direction that he shall pass accounts, the judge shall fix the days upon which he shall, annually or at longer or shorter periods, file and pass such accounts and also the days upon which he shall pay the balances appearing due on the accounts so filed or such part thereof as shall be certified as proper to be paid by him, and Accounts of receiver

with respect to any receiver who shall neglect to file and pass his accounts and pay the balances thereof at the time so to be fixed for that purpose as aforesaid, the judge before whom any such receiver is to account may from time to time, when his subsequent accounts are produced to be examined and passed, disallow the salary therein claimed by such receiver and may also, if he shall think fit, charge him with interest upon the balances so neglected to be paid by him during the time the same shall appear to have remained in the hands of any such receiver. [413; E. 674.]

Failure to file accounts, etc.

664. In case of any receiver failing to file any account or affidavit or to pass such account or to make any payment or otherwise, the receiver or the parties, or any of them, may be required to attend before the judge to show cause why such account or affidavit has not been filed or such account passed or such payment made or any other proper proceeding taken, and thereupon such directions as shall be proper may be given by the judge, including the discharge of any receiver, and appointment of another and payment of costs. [414; E. 677.]

Accounts of liquidators and guardians

665. The accounts of liquidators and of guardians shall be passed and verified in the same manner as receivers' accounts. [416; E. 679, 679a.]

ABSCONDING DEBTORS.

Affidavit as to absconding debtor

666. After the commencement of any suit wherein the claim is for the recovery of a debt of $100 or upwards from the defendant to the plaintiff, upon affidavit made by the plaintiff or one of several plaintiffs, if more than one, or by his or their agent, having a personal knowledge of the matter, stating clearly and succinctly from what cause such debts arose and the amount thereof and that he has good reason to believe (giving reasons therefor) that the defendant—

(*a*) Is about to abscond or has absconded from Alberta, leaving personal property liable to seizure under execution for debt; or

(*b*) Has attempted to remove such personal property out of Alberta or to sell or dispose of the same with intent to defraud his creditors generally or the plaintiff in particular; or

(*c*) Keeps concealed to avoid service of process; and

(*d*) That the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage;

And upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reasons) that the defendant is about to abscond or has absconded or has attempted to remove his personal property out of Alberta or to sell or dispose of the same or keeps concealed with intent as aforesaid, as the case may be, a judge being satisfied with the reasons aforesaid on application to him *ex parte* may direct the clerk to issue a writ of attachment in form D in the schedule hereto, which writ shall be executed by the sheriff according to its tenor:

Attachment of property of absconding debtor

Provided that in any case where the debtor has absconded or is about to abscond from Alberta, leaving no wife or family behind, no property of such debtor shall be exempt from seizure. [417.]

667. A copy of every such writ shall be served on the debtor against whose effects the same is issued at the time of making any seizure thereunder, or as soon thereafter as such service can be effected, if the said debtor can be found; but if such personal service cannot be effected, a copy of the writ shall be left with some grown-up person resident at the place where such seizure is made, or, if no person is there resident, posted in a conspicuous place on the premises. [418.] Service of writ on debtor

668. Immediately after making a seizure under the said writ the sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized and the value thereof according to the best of his judgment and an affidavit of the manner in which service of such writ has been effected. [419.] Return to writ and inventory

669. Upon the seizure of any property under the writ hereinbefore described the person in whose possession such property was at the time of seizure may have the same returned to him upon giving the sheriff sufficient security for or paying into court an amount equal to its appraised value, as shown by the inventory prescribed by the preceding Rule. [420.] Return of property on giving security

670. Unless the property seized is redelivered or relinquished by the sheriff under any of the provisions hereof he shall, unless otherwise ordered, hold the same until the plaintiff obtains judgment in the cause and an execution upon such judgment is delivered to the sherriff: Retention of property by sheriff

Provided that in case the plaintiff fails to recover judgment or is guilty of any unnecessary delay in the prosecution of his suit to judgment a judge may order the redelivery of the property so seized to the person from whose possession it was taken, unless some other writ of attachment or execution against the defendant shall be in the sheriff's hands for execution. [421].

671. Notwithstanding the issue of a writ of attachment, the cause shall be proceeded with in the ordinary way, but the plaintiff shall not have judgment against the defendant except by order of a judge and, in case the plaintiff fails to recover judgment for the full amount of the debt sworn to, he shall not be entitled to any costs, but may be ordered to pay the costs of the defendant. [422.] Proceeding with action notwithstanding writ

672. A writ of attachment may be set aside by a judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceedings. [423.] Setting aside writ of attachment

673. In case any horses, cattle, sheep or any perishable goods or chattels or such as from their nature cannot be safely kept or conveniently taken care of are taken under any writ of attachment, the officer who seized the same shall have them appraised and valued on oath by two competent persons, and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by one or more persons whose sufficiency shall be approved of by such officer in double the amount of the appraised value of such articles, conditioned for the payment Sale of horses, etc., or perishable goods

of such appraised value to the defendant, together with all costs and damages incurred by the seizure and sale thereof in case judgment is not obtained by the plaintiff against the defendant, then the sheriff may sell all or any of such enumerated articles at public auction to the highest bidder, giving not less than six days' notice of such sale unless any of the articles are of such a nature as not to allow of that delay, in which case the officer shall sell such articles last mentioned forthwith and shall hold the proceeds of such sale for the same purpose as he would have held any property seized under the attachment. [424.]

Failure to deposit bond

674. If the plaintiff after notice to himself or his solicitor of the seizure of any articles enumerated in the preceding Rule neglects or refuses to deposit the bond or only offers a bond with sureties insufficient in the judgment of the sheriff, then after the lapse of four days next after the notice the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. [425.]

SATISFACTION OF JUDGMENT.

Memorandum of satisfaction of judgment

675. A memorandum of satisfaction of judgment shall be entered by the clerk in the procedure book on a consent to the satisfaction signed by the person entitled to the benefit of the judgment or his solicitor on the record, verified by affidavit, or on the order of the judge.

(2) The order shall be obtained on notice and upon such proof of satisfaction as the judge may require.

PAYMENT OF MONEY INTO AND OUT OF COURT.

Payment into specified banks

676. All moneys to be paid into court shall be paid into such incorporated bank or banks as may be designated for that purpose for each judicial district from time to time by order of the Lieutenant Governor in Council, after a written direction has been first obtained from the clerk of the court to the bank to receive the money, and in no other manner.

Payment into court, how made

677. Any person desiring to pay money into court shall file with the clerk a *praecipe* and obtain from him a direction to the bank to receive the money.

678. Any person paying money into court shall be entitled to credit therefor as of the date on which the same was deposited in the bank.

Receipt by bank

679. The bank on receiving the money, shall give a receipt therefor in duplicate one of which shall be delivered to the person making the deposit, and the other posted or delivered the same day to the clerk of the court by whom the direction was given.

680. The money shall be paid into court into a suitors' account to the credit of the cause or matter in which the payment is made and money paid in shall only be paid out under an order of the court or a judge.

681. The suitors' account shall be in charge of the clerk of the court into which the money is paid. Suitors' account

682. In the suitors' account there shall be entered every sum of money paid into court, by whom and under what authority; and also every sum paid out, to whom and under what authority. Payment out of court, how made

683. Money shall be paid out of court only upon the cheque of the clerk of the court countersigned by a judge. [144.]

684. No order shall be made for payment out, or cheque countersigned, when no order is necessary, without the production of a certificate of the clerk that the moneys are in court.

685. Except under special circumstances no money shall be paid out of court to any person other than the person entitled thereto, except on the latter's written authority.

686. Simple interest shall be allowed upon moneys paid into court at the rate of 3 per cent. per annum: Interest upon moneys in court

Provided that no interest shall be allowed on any sum less than $500, unless the same has remained in court at least one month.

687. Wherever the balance remaining to the credit of any action or matter to which an adult party is entitled does not exceed $25, and two years have elapsed without the balance being claimed, the account in such action or matter shall be closed by the transfer of the balance to "the suspense account," but such transfer shall not prejudice the claim of any suitor entitled to the balance to its payment. Suspense account

(2) All balances, which are or shall hereafter be standing to the credit of any action or matter which have not been or which hereafter shall not be claimed before the lapse of ten years from the time when application might have been made for the payment out thereof to the person entitled thereto, shall be transferred to the suspense account; but such transfer shall not prejudice the claim of any person to the payment of any moneys so transferred. Moneys standing to the credit of the suspense account shall be subject to the control and direction of the Lieutenant Governor in Council. [O. 58.]

688. Moneys recovered on behalf of an infant or person of unsound mind may be ordered to be paid into court and any sum so paid into court and any interest thereon shall be subject to such orders as may from time to time be made concerning the same and may either be invested or be paid out of court or transferred to such persons to be held and applied upon and for such purposes and in such manner as the court or a judge shall direct. [140; E. 269.] Moneys recovered on behalf of infant, etc.

689. All moneys under the control and subject to the order of the court may be invested in the public funds of the Dominion or of the province, or in such other class of securities as the judges of the court may from time to time authorize. [143; E. 271.] Investment of moneys in court

Payment out of small intestate estates

690. When the estate of a deceased person, who has died intestate, is entitled to a fund or to a share of a fund in court not exceeding $500 and it is proved to the satisfaction of a judge that no administration has been taken out and that the assets of the estate do not exceed $500, including the amount in court to which such estate is entitled, the judge may direct that the amount shall be paid or transferred to the person or persons beneficially entitled thereto. [E. 272a.]

SALES OF REAL ESTATE.

Power of court to order sale of real estate

691. If in any cause or matter relating to any real estate it shall appear necessary or expedient that the real estate, or any part thereof should be sold, the court or a judge may order the same to be sold and any party bound by the order and in possession of the estate or in receipt of the rents and profits thereof shall be compelled to deliver up such possession or receipts to the purchaser or such other person as may be thereby directed. [449; E. 680.]

Mode of carrying out sale, mortgage, partition or exchange ordered by court

692. In all cases where a sale, mortgage, partition or exchange is ordered the court or a judge shall have power, in addition to the powers already existing, with a view to avoiding expense or delay or for other good reason, to authorize the same to be carried out:

(1) By laying proposals before a judge for his sanction; or

(2) By proceedings altogether out of court, any moneys produced thereby being paid into court or to trustees or otherwise dealt with, as the judge may order; provided always that the the judge shall not authorize the said proceedings altogether out of court unless and until he is satisfied by such evidence as he shall deem sufficient that all persons interested in the estate to be sold, mortgaged, partitioned or exchanged, are before the court or are bound by the order for sale, mortgage, partition or exchange. [450; E. 680a.]

Sale with approbation of judge

693. Where a judgment or order is given or made directing any property to be sold, unless otherwise ordered, the same shall be sold with the approbation of a judge to the best purchaser that can be got for the same, to be allowed by the judge, and all proper parties shall join in the sale and conveyance, as the judge shall direct. [451; E. 682.]

Conduct of sale of property vested in executor, etc., or trustee

694. Whenever a judgment or order is given or made for the administration of the estate of a deceased person or execution of the trusts of a written instrument and a sale is ordered of any property vested in any executor, administrator or trustee, the conduct of such sale shall be given to such executor, administrator or trustee unless the judge shall otherwise direct. [489; E. 666.]

MISCELLANEOUS

Claimants not coming in to prove, etc., excluded

695. Where a judgment or order is given or made directing an account of debts, claims or liabilities or an inquiry for heirs, next-of-kin or other unascertained persons, unless otherwise ordered, all persons who do not come in and prove their claims

within the time which may be fixed for that purpose by a judge, shall be excluded from the benefit of the judgment or order. [491; E. 806.]

696. The judge may direct that notice of the time so fixed by him be given by publication in a newspaper or newspapers to be specified by him and unless otherwise directed no other notice shall be required. [492; E. 807.] Advertisements

697. On consent of all parties interested a judge may set aside, vary or discharge any order made by him. [497.] Discharge, etc. of order by consent

LUNACY.

698. Proceedings in lunacy shall be by petition for that purpose, verified on oath, setting forth the grounds on which the application is made and the relation of the petitioner to or with the alleged lunatic and his property and estate and also a description and value of the same, separating real and personal estate. The petition shall be heard by a judge. [551.] Proceedings in lunacy to be by petition

699. Upon presentation of such petition the judge shall appoint a time and place for the hearing of the same, at which time and place (all necessary parties having been duly notified) the judge shall inquire into the facts and hear such evidence under oath as may be adduced and shall thereupon determine whether or not the person who is the subject of the inquiry is at the time of such inquiry of unsound mind, has property and is incapable of managing such property. [552.] Conduct of lunacy proceedings

700. A copy of such petition and notice of the intended application shall be served on the alleged lunatic, unless such service be dispensed with by the judge. [553.]

701. The judge may make an order, as in an action, to take evidence to be used on any such hearing, and all depositions taken thereunder shall be received in evidence at the hearing, saving all just exceptions. [554.]

702. In case the judge shall determine such person to be a lunatic and that he has property, the judge shall forthwith order the appointment of one or more persons as guardian or guardians to his estate. [555.] Appointment of guardian of lunatic

703. On every such inquiry the alleged lunatic, if he be within the jurisdiction, shall be produced and examined by the judge, if the judge so directs. [556.] Examination of lunatic

704. The judge may order the costs, charges and expenses of and incidental to proceedings in matters of lunacy to be paid either by the party presenting the petition or the party opposing the same (if opposition is made) or out of the estate or partly one way and partly the other. [557.] Costs

705. In every case, unless otherwise specially provided by order of the judge, the following provisions shall be complied with: Security and duties of guardian of estate of lunatic

(1) The guardian of the estate, except in the case of the appointment of the public administrator and official guardian, shall, before receiving his appointment, furnish security to be approved by the judge in double the approximate value of the personal estate and of the annual value of the real estate for duly accounting for the same once in each year or oftener, if required by the judge or court, such security to be by bond to the clerk of the court and his successors in office or legal assigns, which bond shall be filed in court.

(2) The guardian of the estate shall, within six months after appointment, file in court a true inventory of the whole real and personal property and estate of the lunatic, stating the income and profits thereof and setting forth the debts, credits and effects of the lunatic, so far as the same have come to the knowledge of the guardian.

(3) If any property belonging to the estate be discovered after the filing of the inventory the guardian shall file a true account of same from time to time, as the same is discovered, and shall give such further security, if any, as may be ordered.

(4) Every inventory shall be vertified by the oath of the guardian. [558.]

Procedure where estate insufficient

706. Whenever the personal estate of a lunatic is not sufficient for the discharge of his debts:

(1) The guardian of his estate may apply by petition to the judge for authority to mortgage or sell so much of the real estate as may be necessary for the payment of such debts.

(2) Such petition shall set forth the particulars and amount of such estate (real and personal) of the lunatic, the application made of any personal estate and an account of the debts and demands against the estate.

(3) The judge may take or cause to be made inquiries into the truth of the representations made in the petition and hear all parties interested in the real estate.

(4) If the judge is satisfied as the result of such inquiries that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper the judge may order the real estate or a sufficient portion of it to be mortgaged or sold by the guardian and the moneys thus raised shall be employed for the payment of the debts of the estate and if insufficient shall be distributed in the same way as intestates' estates are distributed by law, the guardian having first provided a bond similar in terms to that provided by paragraph (1) of the next preceding Rule for duly accounting for the proceeds so raised. [559.]

707. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance and that of his family and for the proper education of his children, or when for any other cause, it shall appear desirable so to do, on application made by the guardian or any member of the family of the lunatic, the judge may, after inquiry as hereinbefore provided in the case of debts, order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian, the guardian having first provided a bond as required by the preceding Rule. [560.]

708. The judge may order such remuneration to the guardian of a lunatic as he may consider reasonable to be paid and raised from the lands, rents or personal property of such lunatic. [561.] Remuneration of guardian

709. On sufficient grounds shown the judge may remove a guardian and appoint another in his stead. [562.] Removal of guardian

710. In lunacy proceedings the petitions and papers may be intituled as follows: Title in lunacy proceedings

"In the Supreme Court,

Judicial district of..... In the matter of....., an alleged lunatic." [563.]

ACTIONS AGAINST PUBLIC OFFICERS.

711. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer (unless otherwise ordered by a judge) shall be commenced and tried in the district wherein the act was committed and must be commenced within six months after the act was commited and not otherwise. [536.] Actions against public officer

712. All rules of practice heretofore in force inconsistent with these Rules are hereby superseded. [O. 2.] Inconsistent rules of practice superseded

713. The judges of the Supreme Court are hereby authorized to alter and amend any Rules of Court or tariffs of costs or fees for the time being in force, or make additional Rules or tariffs. Power of judges to make and alter rules

FORM A.

Rule 35.

NOTICE TO A THIRD PARTY.

To.....(*the person upon whom service is to be made*). Take notice, first, that from the time of service of this notice, you [*naming the party* (*where the notice is directed to be served on some person for an infant or person of unsound mind*) *X. Y.* (*naming the infant or person of unsound mind*) *an infant or a person of unsound mind*] will be bound by the proceedings in this cause in the same manner as if you (*or*, the said infant or person of unsound mind) had been originally made a party unless you (*or* the said infant or person of unsound mind) within fourteen days after the service hereof apply to the court to discharge, vary, or add to the within judgment (*or* order). And secondly that you (*or*, the said infant or person of unsound mind) may upon service upon the plaintiff attend this proceeding under the within judgment (*or* order).

A.B. of the.....of.....in the of.....

Solicitor for the plaintiff.

FORM B.

Rule 61.

FORM TO BE ENDORSED ON COPY OF ORDER TO CARRY ON PROCEEDINGS.

Take notice that if you desire to discharge this order you must apply to the court for that purpose within twelve days after the service hereof upon you (*or as the case may be*, within twelve days of the appointment for you of a guardian *ad litem*). The statement of claim in this action is filed in the office of the.....at.....

Solicitor for the plaintiff.

[*To the parties to be served with the order.*]

FORM C.

Rule 648.

GARNISHEE SUMMONS.

In the Supreme Court of Alberta,
Judicial District of.....

BETWEEN:—
.....of.....
Plaintiff
and
.....of.....
Defendant
and
.....of.....
Garnishee

To the above named Garnishee:

You are hereby notified that an action has been commenced in this court by the issue of a statement of claim in which the plaintiff claims of the defendant the sum of.....as shown by his statement of claim filed in court, a copy of which is hereto annexed (*or*, You are hereby notified that the plaintiff has recovered a judgment in this court against the defendant for.....) and it is alleged on affidavit filed that you are indebted to the said defendant (*or* judgment debtor).

And you are hereby required within.....days from the service hereof upon you to pay the amount of your said indebtedness to the said into court or so much thereof as shall be necessary to satisfy the claim of the said.....and his probable costs. If you dispute your liability or claim that the said debt is or may be not attachable you must within.....days from the service hereof upon you enter with the clerk an answer hereto by way of statement showing the grounds on which you dispute liability or claim that the debt is or may be not attachable.

Issued at.....this.....day of A.D. 19.....

.....
Clerk of the Court.

FORM D.

Rule 666.

WRIT OF ATTACHMENT.

In the Supreme Court of Alberta,
Judicial District of.....

BETWEEN:

.....of.....
Plaintiff
and
.....of.....
Defendant

GEORGE V. by the Grace of God of the United Kingdom of Great Britain and Ireland, KING, Defender of the Faith, etc.
To the Sheriff of the.....Judicial District:
You are commanded to attach, seize and safely keep all the personal estate, credits and effects together with all evidences of title, debts, books and book accounts or other documents, vouchers or papers belonging thereto or otherwise of the above named defendant to secure and satisfy the plaintiff the sum of.....with his costs of action and to satisfy the debt and demand of such other creditors of the said defendant as shall prosecute their claims to judgment and lodge executions with you the said sheriff within the time allowed by *The Creditors' Relief Act* to entitle them to share in the distribution of the proceeds.
And you are further commanded that so soon as you shall have executed this writ you do return the same with an affidavit of service and a certificate of your action thereunder.
Issued at.....this.....day of A.D. 191....
.....
Clerk of the Court.

RULES AS TO COSTS.

COSTS OF COURT OFFICERS.

1 Fees payable to registrar, etc.

714. There shall be paid to each registrar, clerk and sheriff the fees and allowances authorized by the tariff of fees in schedule E to these Rules.

Where no fees prescribed

(2) For any necessary services performed for which no fees are pescribed a judge may make such allowance as he deems reasonable. [524; O. 1189.]

2 Fees payable in advance

715. All fees and allowances respectively payable under the said tariffs, whether under writs of execution or otherwise, shall be payable in advance by the party at whose instance the service is to be rendered; but in cases where the amounts are impossible of ascertainment for any reason, then the amount estimated by the officer or fixed by the judge shall be deposited or paid, to be accounted for when the correct amount is ascertained. [532.]

SHERIFF'S FEES.

3 Sheriff's fees, where part only levied

716. In case a part only is levied by the sheriff on or by force of any execution the sheriff shall be entitled, besides his fees and expenses of execution, to poundage only upon the amount

so made by him whatever be the sum endorsed upon the writ and in case the personal estate, except chattels real, of the debtor is seized on or under an execution but not sold by reason of satisfaction having been otherwise obtained or from some other cause and no money is actually made by the sheriff on or by force of such execution the sheriff shall be entitled to the fees and expenses of execution and poundage only on the value of the property seized not exceeding the amount endorsed on the writ or such less sum as a judge of the court out of which the writ issued may deem reasonable under the circumstances of the case.

Where land, etc., advertised but not sold

(2) Where land or chattels real of the judgment debtor have been advertised under an execution but not sold by reason of payment or satisfaction having been otherwise obtained on, or within one month before, the day on which the property has been advertised to be sold, or any day to which the sale may be adjourned, the sheriff shall be entitled to the fees and expenses of the execution, and poundage only on the value of the debtor's interest in the property not exceeding the amount endorsed on the writ, or such less sum as a judge may deem reasonable.

(3) Any party interested may apply to the judge to fix such sum either before or after taxation of the sheriff's bill of costs, charges and expenses or on review or appeal from such taxation. [374; O. 1190.]

4 Sheriff entitled to fees only for services actually rendered

717. In the case of writs of execution upon the same judgement to several judicial districts under one of which the personal estate of the judgment debtor or debtors has been seized or advertised but not sold by reason of satisfaction having been obtained under or by virtue of the writ in some other judicial district and no money has been actually made on such execution the sheriff shall be entitled to mileage and fees only for the services actually rendered and performed by him. [375; O. 1191.]

5 Detailed bill for fees, etc., not taxed

718. Upon the settlement of an execution either in whole or in part by payment, levy or otherwise, or upon the withdrawal, stay or setting aside of an execution, the sheriff or officer claiming any fees, poundage, incidental expenses or remuneration which have not been taxed shall, within forty-eight hours after being required by any party interested, deliver a copy of his bill in detail to the applicant.

(2) Such bill shall be taxed by the taxing officer upon the applicant obtaining and serving an appointment for such taxation. [376; O. 1193 & 1194.]

6 Only fees, etc., taxed to be allowed

719. No sheriff shall without taxation collect any fees, costs, poundage or incidental expenses after having been required to have the same taxed; and upon tender of the amount taxed no fees, costs, poundage or incidental expenses in respect of proceedings subsequently taken shall be allowed to any sheriff. [377; O. 1195.]

7 Appointment for taxation of bill of costs

720. It shall be the duty of the taxing officer to grant an appointment for the taxation of and to tax the bills of costs presented to him for taxation upon payment or tender of his fees and to

give when requested a certificate of such taxation and the amount thereof. [378; O. 1194 & 1196.]

721. Any party dissatisfied with the taxation may appeal to a judge for a revision of such taxation. [379; O. 1197.] 8 Appeal from taxation

SECURITY FOR COSTS.

722. Security for costs may be ordered: 9 Security for costs, when ordered

(*a*) Where the plaintiff resides out of Alberta;

(*b*) Where the plaintiff is ordinarily resident out of Alberta though he may be temporarily resident within Alberta;

(*c*) Where the plaintiff has brought another action or proceeding for the same cause, which is pending in Alberta or in any other jurisdiction.

(*d*) Where the plaintiff or any person through or under whom he claims has had judgment or order given against him in another action or proceeding for the same cause in Alberta or in any other jurisdiction with costs, and such costs have not been paid;

(*e*) Where the plaintiff sues as an informer or seeks to recover any penalty given to an informer or person who sues for the same under a statute or law by which a penalty is given to any person who sues for the same, either for his sole benefit, for the benefit of the Crown or partly for his benefit and partly for the benefit of the Crown, and the defendant swears that in his belief the plaintiff or informer is not possessed of property within the jurisdiction sufficient to answer the costs of the action in case a judgment is rendered in favour of the defendant, and that he, the applicant, has a good defence to the action upon the merits, as he is advised and believes;

(*f*) Where the action is brought by a nominal plaintiff;

(*g*) Where upon the examination of the plaintiff it appears that there is good reason to believe that the action is frivolous and vexatious and that the plaintiff is not possessed of sufficient property to answer the costs of the action;

(*h*) Where an action is brought on behalf of a class and the plaintiff is not possessed of sufficient property within the jurisdiction to answer the costs of the action and it appears that the plaintiff is put forward or instigated to sue by others;

(*i*) Where under the provisions of any Statute the defendant is entitled to security for costs.

(2) Where either party to a garnishee, interpleader or other issue is an active claimant, he shall be deemed to be a plaintiff for the purposes of this Rule. [520; E. 981a; O. 1198.] Party to garnishee, etc., deemed a plaintiff

723. The application for security may be made at any time after the service of the statement of claim and shall be supported by an affidavit of the defendant or his agent, who can speak positively as to the facts, alleging that there is a good defence to the action on the merits and specifying the nature thereof. 10 Application to be supported by affidavit

724. If it be made to appear upon the application that the plaintiff is possessed of sufficient property within the jurisdiction that will be available for the defendant's costs, the order may be refused. 11 Order may be refused

12 Requirements of order

725. The order shall require the plaintiff to furnish such security as the judge may direct within two months or such other time as may be specified in the order and that, until such security is given, all further proceedings in the action be stayed and that in default of such security being given the action be dismissed without further order, unless a judge on special application shall otherwise direct. [520, 521; E. 981; O. 1201, 1202, 1203, 1204.]

13 Security by bond

726. Where the security is given by bond, it shall unless the judge otherwise directs be given to the party or person requiring the security. [522; E. 982; O. 1205.]

14 Amount increased or diminished

727. The amount of security may be increased or diminished from time to time. [O. 1208.]

15 Payment out without order

728. Where money has been paid into court as security for costs, it may be paid out and a bond filed for security for costs may be handed out for suit or cancellation, without order upon the written consent of the solicitors. [O. 1210, 1211.]

COSTS AS BETWEEN PARTIES.

[*Nothing contained in the following Rules as to costs shall apply to matters governed by the Small Debt Procedure.*]

16 What "costs" shall include

729. "Costs" shall include all the expenses which any party has reasonably and properly paid or become liable to pay for the purpose of carrying on or appearing as party to any proceeding, including the charges of barristers and solicitors for all services reasonably and properly performed, of accountants, engineers, or other experts for attendance to give evidence, of legal agents for services performed in connection with the proceedings, and any expenses for the preparation of plans, models, copies or documents, for the fees payable to officers of the court, and for obtaining the attendance of witnesses at the trial, or upon any examination on any affidavit or for the purpose of the trial.

What "costs" may by order include

(2) If so directed by the court or a judge "costs" shall also include the reasonable charges of accountants, engineers or other experts for investigations and inquiries made for the purpose of giving evidence or assisting in the conduct of the proceeding.

17 Costs, and how payable, etc., in discretion of court or judge

730. Notwithstanding anything contained in Rules 18 to 33, inclusive, the costs of all parties to any proceeding, including third parties, the amount thereof, the party by whom or the fund or estate or portion of an estate (if any) out of which they are to be paid, shall be in the discretion of the court or judge thereof, and the court or judge may in any case award a gross sum in lieu of or in addition to any taxed costs, and may allow costs to be taxed to one or more parties on one scale and to another or other parties on the same or another scale, and the amounts taxed on the excess of one scale over another to be set off one against another, and in case no order is made the costs shall follow the event. [517, 518; E. 976, 977; O. 1130.]

18 Barrister and solicitor may be ordered to pay costs

731. In any proper case any barrister and solicitor who has acted for any of the parties to any proceeding, may be ordered to pay any of the costs thereof. [525; E. 980, 986.]

19 Costs of infant or person of unsound mind

732. Where the court or a judge appoints a solicitor to be guardian *ad litem* of an infant or person of unsound mind, the court or judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid by the parties or some one or more of the parties to the cause or matter in which such appointment is made or out of any fund in court in which such infant or person of unsound mind may be interested and may give directions for the repayment or allowance of costs as the justice and circumstances of the case may require. [519; E. 988; O. 1138.]

20 Set-off may be allowed

733. A set-off for damages or costs between parties may be allowed notwithstanding the solicitor's lien for costs in the particular cause or matter in which the set-off is allowed. [E. 989; O. 1165.]

21 Charges fixed by schedule C

734. The charges of barristers and solicitors in the District Court and in the Supreme Court shall be in the discretion of the taxing officer, but shall not exceed the amounts as set forth in the first and second columns of schedule C hereto, according to the amount involved and irrespective of the court in which the proceedings were taken:

Court may allow increased charges

Provided that the Supreme Court or a judge thereof may in any case allow such increased charges as the special skill shown or labour done, or the importance or urgency of the matter in controversy directly or indirectly justifies, and the clerk may, unless otherwise ordered by the court or a judge, in any defended case where the amount involved is as set out in the third, fourth and fifth columns of the said schedule, allow increased charges not exceeding those set out in the said columns.

Clerk may allow increased charges as fixed

How clerk may allow fees exceeding sums in schedule

(2) The clerk may in any contested case allow fees exceeding the sums mentioned in the fifth column of the said schedule by one-third where the amount involved is $15,000 or more, by one-half where the amount involved is $25,000 or more, and by as much again where the amount involved is $50,000 or more.

What items in schedule to include

(3) Each item in the said schedule shall be deemed to include all instructions, documents, attendances, letters, taxation of costs and other services necessary or convenient to be taken, prepared, made, written, read, performed, or had, for the purpose of fully completing the step in the cause referred to or implied in such item; provided that if any such step has been begun but only partially completed, a proper proportionate part of the charge may be allowed.

Services not provided for in schedule

(4) In case services have been performed by a barrister and solicitor in any proceedings which are not provided for in the said schedule, either expressly or by implication, such allowance may be made as a judge may see fit.

22 Scale and limitation of costs, how determined

735. Where by any judgment or order costs are directed to be paid by any party the scale and limitation of costs shall, if no other relief than the payment of a sum of money has been claimed or obtained, be determined as against a plaintiff by the amount claimed, or as against a defendant by the amount for which judgment is given.

23 Costs, how taxed where relief other than or in addition to payment of money is recovered or claimed

736. Where by any judgment or order relief other than or in addition to the payment of a sum of money is given, or judgment is given for the defendant in any proceeding in which relief other than or in addition to the payment of money is claimed, the costs shall be taxed upon the scale set out in column 1 of schedule C, if the action is in the District Court, and if the action is in the Supreme Court shall be taxed upon the scale set out in such column of the said schedule or such of the scales mentioned in Rule 21 (2) as the court or judge may direct, and in default of such direction shall be taxed according to column 2 of the said schedule, or according to the scale which would have applied if no relief other than the payment of money had been claimed, whichever is the lower in case the costs are payable to the plaintiff and whichever is the higher in case the costs are payable to the defendant.

24 Costs in interlocutory proceedings may be fixed

737. Where in any interlocutory proceeding costs are directed to be paid, the scale upon which such costs are to be taxed, or the amount to be paid may be fixed by the court or judge by whom the direction is given, and if not fixed, such costs shall be taxed upon the same scale as the general costs of the action, subject to any direction which may be made by the court or a judge.

25 Costs of *ex parte* and other orders

738. No *ex parte* order shall contain any direction as to costs and the costs of and incidental to any order whether *ex parte* or otherwise which are not provided for in the order shall, unless otherwise provided for in these Rules or unless a judge shall otherwise direct, be costs in the cause.

26 Scale of costs on appeals

739. On any appeal the scale of costs of the appeal, and if so stated in the judgment, also of the proceedings in the court below, shall be as directed by the judgment in appeal, or in default of direction shall be the same as that fixed under the order or judgment appealed from.

27 Costs recoverable in actions where relief claimed is a stated sum only, or a stated sum and foreclosure, etc.

740. In any action in which the only relief claimed is the payment of a stated sum of money by way of damages or otherwise, or the payment of money with foreclosure or sale of property mortgaged or pledged to secure such money, no party or number of parties among whom there is no divergence of interest or who might properly have defended by one solicitor shall (except with respect to the costs of any appeal) recover against any other party or parties to any proceeding, costs exclusive of disbursements in excess of the following proportions of the amount claimed or recovered:

Where the amount claimed or recovered does not exceed $100 50 per cent.
On the excess over $100 up to $1,000 15 per cent.
On the excess over $1,000 up to $10,000 10 per cent.
On the excess over $10,000 5 per cent.

In other actions

(2) In all other actions the limitation above mentioned shall apply upon the assumption that the amount claimed or recovered in the action is the highest amount under the scale upon which the costs are in the result of the action taxable.

If damages claimed, amount must be stated

(3) In every action in which a claim by way of damages is set up, the amount of money claimed in respect of such damages must be stated.

28 Costs of persons in same interest but appearing by different solicitors, etc.

741. Where costs are taxable separately by two or more parties among whom there is no divergence of interest, or who might properly have appeared by the same solicitor and been represented by the same counsel, and the sum of the bills taxable by each exceeds, or is likely to exceed, the total amount taxable to all such parties jointly, the division of such total among the parties shall be in the discretion of the court or judge by whom the costs are ordered to be paid, or if no such direction is given, in the discretion of the clerk.

When counsel fee to separate counsel may be allowed

(2) If such parties might properly have appeared by the same solicitor, but have not improperly been represented by separate counsel, the counsel fees to the additional counsel may be taxed in addition to the proportions aforesaid. [E. 1002.]

29 Costs, where two or more issues of law and fact raised and success divided between parties

742. In any case where two or more issues of law and fact are raised upon the pleadings and success upon such issues is divided between the parties, the court or judge may direct the costs only of the more successful of the parties to be taxed and a proportionate part of the whole amount so taxed or of the whole amount taxable, whichever is the lower, to be allowed to such party or parties, and any such direction may either include or exclude the witness fees taxable by all or only some of the parties to whom costs are allowed as set out in schedule D hereto. Schedule "D"

30 Where no direction, how judgment to be construed

743. Where it is inconvenient or impossible to make an order as in the last preceding rule mentioned, and any order is made or judgment given whereby any party is allowed costs except in so far as they have been occasioned or incurred by reason of or relating to any issue or any particular part of the proceedings, such order or judgment shall be read and construed as excluding only the amount by which the costs have been increased by such issue or proceedings.

31 Amount recoverable for party and party costs

744. No party to any proceedings shall be entitled to recover against any other party any sum for costs in excess of the sum for which he, or some other person, would in any event of the proceedings have become or be liable to any barristers and solicitors retained by him; provided that in the absence of any rule or any agreement by any party to the contrary, such party shall be deemed to have become or be liable for costs at least to the amount which he may be found entitled to recover for costs against any other party.

32 Taxing officer may disallow costs increased by unnecessary delay, etc.

745. If upon any taxation it shall appear that the costs have been increased by unnecessary delay or by improper, vexatious, prolix or unnecessary proceedings, or by other misconduct or negligence, or that from any other cause the amount of the costs is excessive having regard to the nature of the business transacted or the interests involved or the money or value of property to which the costs relate, or to the other circumstances of the case, the taxing officer shall allow only such an amount of costs as may be reasonable and proper. [E. 986.]

33 Costs where judgment might have been recovered in District Court

746. When an action is brought in the Supreme Court and the plaintiff recovers a judgment which might have been recovered in the District Court and the judge makes no order to the contrary,

the plaintiff shall recover only such costs as are appropriate to the judgment recovered and the defendant shall be entitled to tax his costs on the scale of costs appropriate to the plaintiff's claim and so much thereof as exceeds the taxable costs of defence which would have been incurred under the scale of costs appropriate to the judgment recovered shall be set off against the plaintiff's judgment and costs. [O. 1132.]

COSTS AS BETWEEN SOLICITOR AND CLIENT.

34 Schedule "E"

747. As between solicitor and client such costs may be allowed as are mentioned in schedule E hereto in respect of the services therein referred to and in respect of other services such allowance may be made as may appear to be a reasonable amount to be paid by the client to the solicitor for the services performed, having regard to the nature, importance or urgency of the matters involved, the circumstances and interest of the person by whom the costs are payable, the fund out of which they are payable, the general conduct and costs of the proceedings, the skill, labour and responsibility involved, and all other circumstances, and having regard also, in proceedings to which the tariff in schedule C may be applied, to the fees allowed by such tariff as between party and party.

35 Solicitor and client may make agreement re payment of costs, etc.

748. A barrister and solicitor may make an agreement in writing with the client respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such barrister and solicitor, either by a gross sum or by commission or percentage or by salary or otherwise, and either at the same or at a greater or a less rate as or than the rate at which he would otherwise be entitled to be remunerated:

Agreement to be allowed by taxing officer before costs payable thereunder

Provided always, that when any such agreement shall be made in respect of business done or to be done in any action the amount payable under the agreement shall not be receivable by the barrister or solicitor until the agreement has been examined and allowed by the taxing officer of the court having power to enforce the agreement in the judicial district in which the solicitor resides, and either party may require the taxing officer to take the opinion of a judge thereon; and such judge shall have power either to reduce the amount payable under the agreement or order the agreement to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be taxed in the same manner as if no such agreement had been made:

Judge may vary or cancel agreement

This rule not to give validity to purchase of interest by solicitor nor to agreement where payment depends on success

And provided further, that nothing herein contained shall be construed to give validity to any purchase by a barrister and solicitor of the interest or any part of the interest of his client in any suit, action or other contentious proceeding to be brought or maintained, or to give validity to any agreement by which a barrister or solicitor retained or employed to prosecute any suit, action or other contentious proceeding stipulates for payment only in the event of success in such suit, action or proceeding.

36 Agreement to be in writing and signed by client or his agent

749. No such agreement shall be enforceable against any client unless it is in writing and signed by the client or his duly authorized agent in that behalf, and where an agreement has been made

which is not enforceable by reason of this Rule and the client objects to its enforcement, the costs shall be such as would be payable in the absence of any agreement.

750. Any provision in any such agreement relieving any barrister and solicitor from liability for negligence or any other liability to which he might be subject as barrister and solicitor shall be wholly void. 37 Certain provisions if in agreement void

751. Where a barrister and solicitor has made an agreement with his client in pursuance of the provisions of these Rules, and anything has been done by such barrister and solicitor under the agreement, and before the agreement has been completely performed by him, such barrister and solicitor dies or becomes incapable to act, an application may be made to the court to examine the agreement by any party thereto, or by the representatives of any such party, and the court shall thereupon have the same power to enforce or set aside such agreement, so far as the same may have been acted upon, as if such death or incapacity had not happened; and the court, if it shall deem the agreement to be in all respects fair and reasonable, may order the amount due in respect of the past performance of the agreement to be ascertained by taxation, and the taxing officer in ascertaining such amount shall have regard so far as may be to the terms of the agreement, and payment of the amount found to be due may be enforced in the same manner as if the agreement had been completely performed by the barrister and solicitor. 38 Procedure under agreement where solicitor dies or becomes incapable to act

752. If after any such agreement as aforesaid shall have been made, the client shall change his solicitor before the conclusion of the business to which such agreement shall relate (which he shall be at liberty to do notwithstanding such agreement), the solicitor, party to such agreement, shall be deemed to have become incapable to act under the same within the meaning of the last preceding Rule; and upon any order being made for taxation of the amount due to such solicitor in respect of the part performance of such agreement, the court shall direct the taxing officer to have regard to the circumstances under which such change of solicitor has taken place; and, upon such taxation, the solicitor shall not be deemed entitled to the full amount of the remuneration agreed to be paid to him unless the judge making the order shall so direct. 39 Effect on agreement of change of solicitors by client

753. Any barrister and solicitor who is guardian, committee, mortgagee, executor, administrator or trustee shall be entitled as against the estate or fund or as against the mortgaged estate to make the same charges for services performed by him as barrister and solicitor for or in connection with the estate or fund or mortgaged property as might have been payable out of the estate or fund or been chargeable against the mortgaged estate if the barrister and solicitor had been employed as such by some other person acting as guardian, committee, mortgagee, executor administrator or trustee. 40 Costs of barrister or solicitor who is also guardian, etc.

41 Costs out of trust funds, etc., against persons not *sui juris*

754. No costs shall be payable out of or chargeable against any trust estate, trust fund or mortgaged property as against any person interested therein, unless such person is *sui juris* and has consented to the payment of such costs, until after such costs have been taxed or allowed as hereinafter provided, whether or not the barrister and solicitor or some other person is the trustee, executor, administrator, guardian, committee, or mortgagee.

42 Solicitor may take payment in advance or security for his fees, etc.

755. Any barrister and solicitor may obtain payment in advance or take security for his future fees, charges or disbursements.

43 Taxing officer may allow interest on moneys disbursed, etc.

756. Upon every taxation of costs, fees, charges or disbursements, the taxing officer may allow interest at such rate and from such time as he thinks just on moneys disbursed by the solicitor for his client, and on moneys of the client in the hands of the solicitor, and improperly retained by him.

44 Court may give solicitor lien for costs and make order for payment, etc.

757. The court or a judge may on the application of a barrister and solicitor declare such barrister and solicitor to be entitled to a charge upon the property recovered or preserved through his instrumentality in any proceeding prosecuted or defended by him, for his proper fees and disbursements in reference to such proceeding, and may make such order or orders as may be just for the raising or payment of such fees and disbursements out of such property.

45 What to affect lien

758. No act or thing shall defeat any such charge unless the property has been disposed of to a *bona fide* purchaser for value without notice.

46 No lien where claim of solicitor is barred

759. No order shall be made charging any property recovered or preserved in any case where the right of the barrister and solicitor to recover payment of his fees and disbursements is barred by any *Statute of Limitations*.

47 Action of solicitor for costs

760. A barrister and solicitor may bring an action for any costs due to him at any time after the same have been incurred; provided that no judgment shall be entered in any such action except upon the order of a judge who may direct a taxation, and no costs of such action shall be allowed to such barrister and solicitor except upon the order of a judge.

TAXATION OF COSTS GENERALLY.

48 Powers of taxing officer on taxations

761. On any taxation, the taxing officer shall have power—

(*a*) To take evidence either by affidavit or *viva voce* upon oath;

(*b*) To direct the production of books, papers and documents;

(*c*) To require notice of the taxation to be given to all persons who may be interested in the taxation or in the fund or estate out of which the costs are payable;

(*d*) To require any party or person to be represented by a separate solicitor;

(*e*) To allow or disallow the costs of the taxation or any part of them to or against any party or any person represented upon the taxation; provided that the costs of a taxation of a solicitor's bill upon the application of a client shall not be allowed against the client unless it shall appear to the taxing officer that the client has acted unreasonably in applying to have the same taxed, or the taxation thereof was unnecessary; and no costs of a taxation of a solicitor's bill against a client shall be allowed against the client upon a solicitor's application for taxation of his own bill against his client except by order of a judge;

(*f*) The taxing officer shall have power to limit or extend the time for any proceeding before him, and where, by any rule, or any order of the court or a judge, a time is appointed for any proceeding before or by a taxing officer, unless the court or a judge shall otherwise direct, such officer shall have power from time to time to extend the time appointed upon such terms (if any) as the justice of the case may require, and although the application for the same is not made until after the expiration of the time appointed, it shall not be necessary to make a certificate or order for this purpose unless required for any special purpose. [E. 1002]

49 Taxing officer to have copy of bill and affidavit of disbursements before issue of appointment

762. Before the issue of any appointment to tax any bill of costs, a copy of the bill and of the affidavit of disbursements, if any, shall be deposited with the officer by whom such bill is to be taxed.

50 Bill to show fees and disbursements in separate columns

763. In every bill of costs, except a bill against a client, under such an agreement as is mentioned in Rule 35, the charges of barristers and solicitors shall be entered in a separate column from the disbursements.

51 Columns of bill to be cast

764. Every column of every bill shall be cast before the bill is left for taxation.

52 Notice of taxation and service thereof

765. One day's notice of any taxation shall be given to every party or person interested in such taxation by service of a copy of the appointment, together with a copy of the bill proposed to be taxed and of the affidavit of disbursements, if any; provided that no notice need be given of any taxation of costs as between party and party to any party to the proceedings who has not appeared therein.

53 Certificate of taxing officer

766. On any taxation the taxing officer shall certify the amount of the costs taxed by him for and against each party or person and may give such interim certificates as may be convenient or necessary and may certify specially any circumstances.

54 Effect of certificate

767. Subject to appeal and the terms contained in the certificate or in the order under which the taxation has been made, any certificate given upon any taxation shall be final and conclusive as to the amounts therein mentioned against all persons who have received notice of the taxation.

TAXATION AS BETWEEN PARTY AND PARTY.

55 What officer shall tax

768. In the absence of other provision costs of any proceedings shall be taxed by the registrar, clerk or deputy clerk of the court, in whose office the proceedings are being carried on at the time of such taxation.

56 Set-off of costs on taxation and procedure

769. If notice of the taxation of any bill of costs is given, every party who is entitled to set off any other costs against the amount of such bill, or who is entitled to any other costs which are to be taxed with such bill either for the purpose of ascertaining the total amount of costs taxable against the party against whom the first mentioned bill is taxable or otherwise, or who is required to bring in a bill of any other costs for the purpose of ascertaining the amount of costs payable to the party by whom such first mentioned bill has been brought in, shall bring in a bill of such other costs within seven days after such notice or within such further time as the taxing officer may allow, and upon default such other party shall forfeit his right to such other costs, and the taxation may proceed accordingly.

Party liable to pay costs may obtain appointment to tax

(2) Any party liable to pay costs may obtain an appointment from the taxing officer calling upon the party entitled to the same to bring in a bill for taxation within such time as the taxing officer shall direct and unless such bill is brought in pursuant to such direction, or within such further time as the taxing officer shall appoint, the party entitled to the costs shall, unless the taxing officer shall otherwise direct, forfeit his right to the same.

57 Taxing officer may adjust costs, allowing set-offs, etc.

770. Where in any proceeding any party liable to pay costs is also entitled to receive costs, the taxing officer may, notwithstanding any lien any solicitor may have for his costs, adjust the amount payable by way of deduction or set-off, or may delay the allowance of costs to one of the parties until he has paid or tendered any costs for which he may be liable.

58 Payment of disbursements to be proved by affidavit before being allowed

771. No allowance shall be made for any services, attendances or fees except the charges of barristers and solicitors and the fees paid to officers of the court, unless the payment therefor of the amount sought to be taxed is proved by affidavit which may be referred to as an affidavit of disbursements.

59 Taxation of costs only after entry of judgment, etc.

772. No costs shall be taxed until after the order or judgment allowing such costs has been signed, entered or otherwise perfected.

60 Taxation stayed only when expressly ordered

773. Costs may be taxed under any judgment or order or award, notwithstanding any stay of the proceedings in which such judgment, order or award was given or made, unless the stay applies expressly to such taxation.

TAXATION AS BETWEEN SOLICITOR AND CLIENT.

61 Bills of costs to be signed by solicitors

774. Every bill of costs to be taxed as between any barrister and solicitor and a client shall be signed by the barrister and solicitor or by one of the members of the firm of barristers and solicitors by which the costs are claimed.

775. Every bill of costs to be taxed against a client under such an agreement as mentioned in Rule 35, shall give sufficient information as to the work done, time spent or moneys collected or expended and other matters as may be required for a complete understanding of the claims made, and there shall appear thereon or be attached thereto a copy of the agreement if in writing, or, if not, a full memorandum of the terms thereof with a statement that the client has been informed that the agreement is voidable at his instance, but has not made any objection to the enforcement thereof. 62 What solicitor and client's bill to show

776. Any such agreement shall, as against any person liable to pay any costs, be allowed only to the extent to which the same is fair and reasonable in the circumstances, and may be allowed or disallowed in whole or in part as well with respect to sums paid thereunder as to sums remaining unpaid. 63

777. Any barrister and solicitor at any time after the delivery of a taxable bill, and, subject to the provisions of Rule 67, any person to whom a taxable bill has been delivered may obtain an appointment from the taxing officer of the judicial district in which the office of the barrister or solicitor is situated, or such other taxing officer as a judge may direct. 64 When and where bill may be taxed

778. To prove the delivery of a taxable bill of costs it shall be sufficient to prove by affidavit that a bill with the particulars of the amount claimed and signed as aforesaid, was delivered or mailed to the party to be charged, or one of the parties to be charged or his agent in that behalf, at his proper address, and a sufficient bill shall thereupon be deemed to have been received at the time of such delivery or in the ordinary course of mail, as the case may be, unless the contrary is shown. 65 Delivery of bill, how proved

779. Any person from whom a barrister and solicitor has demanded any sum for costs or any person who may be liable, or who is interested in any estate or fund which may be liable for the payment of any costs may apply to the court or a judge *ex parte* for the taxation of such costs, and upon such application the judge may direct the delivery of a taxable bill and may refer the bill for taxation to a taxing officer. 66 Person liable to pay costs may apply *ex parte* for order for taxation

780. No bill shall be subject to taxation after payment thereof or after the expiration of one year from the delivery thereof, except upon the order of a judge made on notice under special circumstances, to be proved to the satisfaction of the judge, and upon such terms, conditions and directions, as the judge may think proper, but no such reference under any circumstances shall be made after the expiration of two years after payment. 67 Limitation as to right to demand taxation

781. Upon any bill of costs being taxed payment thereof may be enforced upon the order of a judge to be obtained on notice, but where any order has been made by a judge for the delivery of a taxable bill, or for the taxation thereof, such order may provide for the payment thereof when the same has been taxed. 68 How payment after taxation may be enforced

69 Application for taxation to a judge, and order

782. Any application for the taxation of a bill of costs shall be intituled "In the matter of the taxation of the costs of..... a barrister and solicitor," and upon any such application such order as may be just may be made for the delivery up by the barrister and solicitor of any deeds, documents or papers of the client in the possession of the barrister and soilcitor.

70 When bill may be taxed a second time

783. Where a bill of costs has been taxed it shall not be referred for taxation a second time, except under special circumstances.

APPEALS FROM TAXATIONS.

71 Who may appeal from taxation, when and how

784. Any person pecuniarily interested in the result of any taxation may within forty-eight hours after its completion, or after he has received notice of the issue of any interim certificate file with the officer by whom the bill was taxed written objections to the taxation specifying the items objected to and the grounds of objection thereto, and within forty-eight hours thereafter he may serve upon the opposite party notice of a motion to be made to a judge in chambers within seven days thereafter by way of appeal from the taxation, but upon such appeal he shall be confined to the items objected to and the grounds of objection taken in the written objections filed with the clerk.

72 Powers of judge hearing appeal

785. On any such appeal, the judge may exercise any of the powers which might have been exercised by the taxing officer upon the taxation and any discretion exercised by the taxing officer shall be subject to review as fully as if the taxation had been made by the judge in the first instance.

Writ of execution or payment of costs, how affected by result of appeal

(2) If a writ of execution has been issued for costs which are reduced on appeal, the writ of execution shall be returned to the clerk issuing the same for amendment in accordance with the order made upon the appeal; and if the amount as originally taxed by the taxing officer has been paid and after payment thereof such amount be reduced on appeal the judge may order the return of the excess by the party who has received the same and execution may be issued upon such order for such excess, and if such costs have been paid to a solicitor, such solicitor may be ordered to return such excess and such order may be enforced by attachment.

SCHEUDLE C.

SCHEDULE C.	Column 1 Not exceeding $400	Column 2 Over $400 and under $1,000	Column 3 $1,000 or more	Column 4 $2,000 or more	Column 5 $5,000 or more
1. Commencement of proceedings by statement of claim, petition, originating notice or otherwise—					
(*a*) Where one defendant or opposite party	$15.00	$25.00	$30.00	$35.00	$40.00
(*b*) For each additional defendant or opposite party	1.00	2.00			
2. Garnishee process—					
(*a*) Where only one garnishee	4.00	7.00			
(*b*) For each additional garnishee	.75	1.50			
3. Proceedings in replevin or attachment—					
(*a*) Where only one defendant	10.00	15.00			
(*b*) For each additional defendant	.50	1.00			
4. Commencement of third party proceedings—					
(*a*) Where one third party	10.00	15.00	20.00	25.00	30.00
(*b*) For each additional third party	1.00	1.50			
5. Service of process where taxable on sheriff's default or obtaining undertaking to defend	.50	1.00			
6. Correspondence effecting service of process out of the jurisdiction	2.00	1.00			
7. Defence or defence and counterclaim by defendant or third party in any proceeding commenced by statement of claim	10.00	15.00	20.00	25.00	40.00
8. Proceedings to appearance by third party	12.00	15.00	20.00	25.00	30.00
9. Proceedings to appearance for party served with judgment or order	2.00	4.00			
10. Defence to counterclaim	5.00	10.00	15.00	20.00	35.00
11. Reply (where special and not joined with defence to counterclaim) or amending pleadings (where taxable)	2.50	5.00	10.00	15.00	20.00
12. Joinder of issue where necessary to close pleadings to set down for trial	1.00	2.00			
13. Motions and Applications—					
(*a*) On applications for directions (to be allowed only once in any action)	15.00	25.00	30.00	40.00	50.00
(*b*) On applications, except applications for directions, having reference to questions of practice or procedure, when opposed	12.00	15.00	18.00	20.00	25.00

SCHEDULE C.—(*Continued.*)

SCHEDULE C.	Column 1 Not exceeding $400	Column 2 Over $400 and under $1,000	Column 3 $1,000 or more	Column 4 $2,000 or more	Column 5 $5,000 or more
(*c*) On such applications when *ex parte* or unopposed	8.00	12.00			
(*d*) Motions for judgment, injunction, the appointment of a receiver or other special applications, including appeals from master or local judge when opposed	15.00	25.00	30.00	40.00	50.00
(*e*) On such applications when *ex parte* or unopposed	10.00	15.00	18.00	20.00	25.00
(*f*) On adjournment of motion or application where counsel attends (where taxable)	2.00	3.00	5.00	7.00	10.00
14. Examination of parties or witnesses before trial or in aid of execution at place of residence of solicitor—					
(*a*) Where one witness or opposite party examined	8.00	15.00	18.00	20.00	30.00
(*b*) For each additional witness or opposite party	5.00	10.00	10.00	12.00	15.00
(*c*) For attending on examination of a party or witness by an opposite party	5.00	10.00	10.00	12.00	15.00
15. Examination of witnesses or parties before trial or in aid of execution elsewhere than at residence of solicitor, when solicitor's attendance thereon is shown to be reasonably necessary, the proper travelling expenses of solicitor and for each day he is necessarily absent from his residence	10.00	15.00	18.00	25.00	30.00
16. Affidavit on production	5.00	10.00	15.00	20.00	25.00
17. Preparation (including inspection of documents) for trial or adjourned trial or a reference upon which witnesses are examined *viva voce*—					
(*a*) Where not more than two witnesses are examined or their evidence briefed on behalf of the party taxing costs	10.00	15.00	20.00	30.00	40.00
(*b*) For each witness in excess of two examined or their evidence briefed on behalf of or by the party taxing costs	1.00	2.00	3.00	5.00	10.00
18. Notice to admit facts or documents if admissions made or it appears that they (or a material part of them) should have been made, or consideration of admissions after notice unless not made and it appears that they (or a material part of them) should have been made	5.00	10.00	15.00	20.00	25.00

SCHEDULE C.—(*Continued*)

SCHEDULE C.	Column 1 Not exceeding $400	Column 2 Over $400 and under $1,000	Column 3 $1,000 or more	Column 4 $2,000 or more	Column 5 $5,000 or more
19. Setting down for trial, including notice of trial and copy of pleadings for use of judge	3.00	5.00			
20. Counsel fee with brief for trial—					
(*a*) To first counsel	25.00	40.00	50.00	60.00	75.00
(*b*) To second counsel or solicitor in important cases			15.00	20.00	35.00
21. Counsel fee at trial for each full half day occupied after the first full half day, a proportionate allowance to be made for any part of a half day required to conclude the trial after the first or any subsequent full half day—					
(*a*) To first counsel		20.00	25.00	30.00	35.00
(*b*) To second counsel or solicitor in important cases			10.00	12.50	15.00
22. Adjournment of trial	5.00	10.00	10.00	20.00	25.00
23. Entry of any order or of judgment by default	4.00	6.00			
24. Entry of judgment after contest	5.00	10.00			
25. Issue of one writ of execution	3.00	6.00			
(*a*) Every alias	2.00	4.00			
26. Renewal of each writ of execution	2.00	4.00			
27. Attendance on reference under order or judgment—					
(*a*) Where reference lasts only or less than one full half day's sitting of from 2½ to 3½ hours	8.00	12.00	15.00	18.00	20.00
(*b*) For each full half day occupied after the first full half day, a proportionate allowance to be made for any part of a half day required to conclude the reference after the first or any subsequent full half day	8.00	10.00	12.00	15.00	15.00
28. Settling issue or report	3.00	5.00	8.00	10.00	12.00
29. Obtaining payment out of court	1.00	3.00			
30. Correspondence with agents where proceedings carried on in clerk's office elsewhere than where solicitor resides or with client or his agent where he resides elsewhere than at residence of solicitor, an amount not exceeding	5.00	10.00	12.00	15.00	25.00

SCHEDULE C.—(*Continued*)

SCHEDULE C.	Column 1 Not exceeding $400	Column 2 Over $400 and under $1,000	Column 3 $1,000 or more	Column 4 $2,000 or more	Column 5 $5,000 or more
31. Instructions to agents upon examinations conducted by agents elsewhere than at place of residence of solicitor	3.00	5.00	10.00	15.00	20.00
32. Settlement of action—					
(*a*) Before case set down for trial	5.00	10.00	15.00	20.00	25.00
(*b*) After case set down for trial	10.00	15.00	20.00	30.00	40.00
33. Sale of lands under order or judgment (exclusive of attendance at sale)	15.00	20.00	25.00	35.00	45.00
34. Solicitor attending sale—					
(*a*) When held where solicitor resides	3.00	5.00	10.00	15.00	20.00
(*b*) When held elsewhere	8.00	12.00	20.00	30.00	40.00
35. Preparing for hearing of appeal to Appellate Division—					
(*a*) To appellant	20.00	35.00	40.00	45.00	50.00
(*b*) To respondent	10.00	15.00	20.00	25.00	30.00
36. On argument before Appellate Division for the first full half day's sitting of from 2½ to 3½ hours or any part thereof if hearing concluded in only or less than one full day—					
(*a*) To first counsel	25.00	45.00	50.00	60.00	75.00
(*b*) To second counsel in important cases			15.00	20.00	25.00
37. On argument of appeal before Appellate Division for each full half day occupied after the first full half day, a proportionate allowance to be made for any part of a half day required to conclude hearing after the first or any subsequent full half day—					
(*a*) To first counsel		15.00	20.00	25.00	35.00
(*b*) To second counsel in important cases			10.00	15.00	20.00
38. Entering judgment in appeal	4.00	8.00			
39. On appeals from convictions	25.00				
40. Instructions for and preparing all papers, making every application to the court, and for doing every act, matter or thing whatsoever in connection with a distress seizure or sale, under extra-judicial process (order in Council Nov. 2nd, 1914)	5.00	7.50	10.00		
41. Instructions and all applications, entry of, and filing order for sale after seizure under judicial process (Order in Council, Nov. 2, 1914)	3.00	5.00	7.50		

SCHEDULE D.

	In Dis. Court	In Sup. Court
Allowances to witnesses, jurors and interpreters, subject to be increased under special circumstances by a judge—		
For every day or part of a day required for going to, staying at and returning from the place of trial.		
(*a*) Where such witness or interpreter is a barrister or solicitor, physician, minister of the gospel, engineer, surveyor or other professional man—		
(1) At place of residence	$3.00	$5.00
(2) Elsewhere	5.00	10.00
(*b*) In other cases	1.00	2.00
For every mile actually travelled by such witness in going to and returning from the place of trial otherwise than by railway or public steamboat	.10	.10
The taxing officer may allow an additional sum to an interpreter under special circumstances, not to exceed	5.00	5.00
The amount actually paid for railway or steamboat fare.		
The amount actually paid for sleeping accommodation and food while going to, and returning from the place of trial, not more than $2.00 a night being allowed for sleeping accommodation or more than $3.00 per day for food while the journey continues, and for food and sleeping accommodation while staying at place of trial, the amount actually and reasonably paid in the discretion of the taxing officer.		

SCHEDULE E.

Fees of Officials.

registrar's fees.

On receiving appeal books and inscribing cause and attending court on hearing	$5.00
Instead of the last mentioned fee, on inscribing any cause, special or stated case or matter referred to the court, by a judge and attending the court on argument (if so directed by the judge)	2.00
For receiving and filing factums received from each side and forwarding copies to judges	1.00
Postage paid	
Entering and registering every judgment, decree or order up to five folios	2.00
For each additional folio of 100 words	.20
Every writ or other process, rule or order	2.00
Every filing	.10
Every certificate, with or without seal of court	1.00
Copies of proceedings, per folio of 100 words	.10
Every search	.25
Every oath administered	.25
Every motion or argument not otherwise provided for	2.00
Every taxation of costs per hour or fraction of an hour	2.00
Certifying appeal book to the Supreme Court of Canada or the Judicial Committee of the Privy Council	5.00

clerk's fees—general.

	Supreme Court	District Court
Receiving and entering in docket every claim for suit and preparing and issuing original process, including filings	$3.00	$2.00
Each copy of claim when not provided by party applying for process	.60	.40
If over two folios, per folio additional	.10	.10
Entering any defence, and filing	2.00	1.00
Entering and recording every final judgment or verdict (including necessary filings)	3.00	2.00
If exceeding five folios, for each additional folio	.20	.20

	Supreme Court	District Court
Every other judgment or order of the court	.75	.50
If exceeding five folios, for each additional folio	.20	.20
Entry of satisfaction of judgment	2.00	1.00
Examining bond and affidavits thereon for security for costs	1.00	.50
Taxation of costs, except when a lump sum allowed	1.50	1.00
Preparing special jury list for striking jury panel	3.00	2.00
Every filing not otherwise provided for	.10	.10
Every judge's order, garnishee summons, writ of replevin or attachment	1.00	.75
Every execution or other final process	4.00	2.00
If over three folios, per folio additional	.20	.20
Every renewal of writ	.75	.50
Every search	.25	.25
Every search by persons not a party to suit	.50	.50
Examining every affidavit necessary for the issue of process	1.00	.75
Every commission or exemplification of judgment	2.00	1.00
If over five folios, per folio	.10	.10
Posting and certifying record	1.00	.50
Setting down cause or motion for trial or argument	1.00	.75
Taking accounts under judge's order or order of court, or reference, or examination of witnesses, per hour	1.50	1.00
Every appointment	.30	.20
Swearing every witness or juror	.25	.25
Every certificate, with or without seal of court	1.00	1.00
Certifying appeal book	5.00	5.00
Copies of evidence or papers filed, per folio	.10	.10
Amending proceeding on file, including search	.75	.50
Necessary postage disbursed		
Upon payment of money into court	1.00	.50
On money being paid out of court not exceeding $100	.50	.50
Over $100 and not exceeding $500	1.00	.75
Over $500	2.00	1.00

SHERIFF'S FEES.

For receiving, entering and endorsing every process and every order or other document requiring service	.50	.25
Every return of all documents, processes and writs	.25	.25
Every affidavit of service, exclusive of fee paid commissioner, notary or justice of the peace	.25	.25
Paid oath	.25	.25
Fee on every service	.50	.25
Every warrant to execute any process, when given to a bailiff	.50	.50
For every arrest under warrant, bond required to be taken to the sheriff for securing goods attached, indemnity, or other purposes	2.00	2.00
For assignment of replevin bond	2.00	2.00
For executing every writ of possession or restitution	4.00	2.00
For every search not being by a party to the cause or his solicitor	.25	.25
For every certificate when required	.50	.50
And for every certificate when required under seal, including search	1.00	1.00
For seizing estate or effects under attachment or execution	2.00	1.00
For notice of sale of goods	.75	.50
Each copy, not exceeding seven	.10	.10
For notice of sale of lands	1.00	1.00
Each copy, not exceeding three	.25	.25
For every notice of postponement, including copies	.50	.25
For every schedule of goods taken in execution or seized under attachment, including copy for party whose goods are taken or seized (when not exceeding five folios)	1.00	1.00
Every folio over five	.20	.20

	Supreme Court	District Court
For making every affidavit (other than of service), besides fee paid out for oath	.50	.50
For mileage for every mile necessarily travelled and sworn to in serving and executing summonses, writs and other processes and papers of every description, from the place where the same are severally received or the sheriff's office (whichever is nearest) to the place of service or execution as aforesaid, and return	.15	.15
For poundage on executions and attachments in the nature of execution, when the sum realized shall not exceed $400, five per cent.; when the sum realized is over $400 and does not exceed $4,000, five per cent. for $400, two and one-half per cent. for the balance up to $4,000; and when the sum realized is over $4,000, five per cent. for $400, two and one-half per cent. from $400 to $4,000, and one and one-quarter per cent. for the balance.		
Besides such sums as may be actually disbursed for advertising in such cases required by law, and such sums for care and removal of property seized or taken, as may be approved (in each case) by a judge.		
When the goods to be sold consist of a merchant's stock, and where in the opinion of a judge it was necessary for the sheriff to employ the assistance of an expert in making an inventory and valuation, such sum may be allowed as is actually and reasonably disbursed for such assistance and as may be approved in each case by a judge.		
Posting necessary notices, and attending printer, each	.50	.25
For bringing up prisoner on attachment or *habeas corpus*, besides travel at 12 cents per mile, and disbursements and keep of prisoner, $2.00.		

RULES RELATING TO SMALL DEBT PROCEDURE IN THE DISTRICT COURTS

786. In all claims and demands for debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed $100, the procedure shall, unless otherwise ordered or allowed by a judge, be as set out in Rules 2 to 30 inclusive. 1 Claims for debt under $100

787. Every plaintiff when he enters an action with the clerk shall do so by leaving with him (by post or otherwise) a simple statement in writing (with a copy to file and one for each copy of summons desired) of the cause of action. Such statement may, in the case of an account, be in the usual form of items of an account or otherwise, and in the case of a bill, note, order, or any other written instrument, may be in the form of a copy of such instrument, or in the form of a concise statement of its purport or effect, setting out the date and other particulars, and in all cases such statement shall exhibit the grounds of action, so that it may be known or understood by a person of ordinary intelligence what the action is brought for. The clerk shall attach such statement to the summons and shall attach to each copy of the summons a copy of such statement; provided that the statement may be endorsed upon the summons and the copies thereof. 2 Entry of action; Particulars of claim; May be endorsed on summons

788. The plaintiff shall also at the time he so delivers his statement to the clerk inform him of his post office address, of the 3 Addresses of parties

full name of the defendant, where practicable, and also of the defendant's place of residence and post office address with as much certainty and particularity as possible.

4 Entry of claim

Issue of summons

789. Upon receipt of such claim and upon payment of the proper fees therefor the clerk shall enter such claim in the procedure book, to be kept by him for that purpose, and shall issue a summons, corresponding in substance with form H in the schedule hereto, which summons shall be filled up by him and shall be without blanks either in date or otherwise, and shall also make out and furnish as many copies of the said summons as there are defendants and shall attach to each a copy of the dispute note in form L in the schedule hereto.

5 Delivery of summons

790. Upon the issue of the said summons the clerk shall deliver or transmit the same and the copies thereof with the copies of claim attached thereto or endorsed thereon, to the plaintiff or as he may direct, and shall attach to the original summons a copy of the dispute note in the said form L and as many copies of the affidavit of service in form K in the schedule hereto as there are defendants in the said suit.

6 Time for entry of dispute

Within district

Within province

Outside the province

791. The defendant shall have the following time within which to pay the claim or enter a dispute, viz.:

(1) Where the defendant resides in the district in which the summons issued, twenty days from the service of the summons;

(2) Where the defendant resides in the Province of Alberta but outside the district in which such summons issued, twenty-five days from the service thereof;

(3) Where the defendant resides in any place in Canada outside the said province, or in the United Kingdom, or in the United States of America, thirty days from the service thereof;

(4) In none of the above cases shall it be necessary to obtain an order for service out of the jurisdiction.

7 Service of summons by mail

792. A summons or garnishee summons may be served on the defendant by registered mail if the post office receipt for the letter containing such document purporting to be signed by the defendant be produced; and the affidavit of service in such cases shall be in form K.

8 Clerk to notify plaintiff of dispute or payment

793. After the receipt of such summons with the affidavit or affidavits of service thereof and the expiration of the time limited therein for payment or dispute the clerk shall notify the plaintiff or his solicitor whether the defendant has entered a dispute or not or has paid the claim in full or part, and in case a dispute has been entered shall send particulars of the same and notice by mail of the time and place of trial to all parties to the action addressed to their respective addresses for service; provided that the time fixed for the trial shall not be less than thirty days after the mailing of the notice, or, if the claim has been paid in full, a cheque for the amount thereof less the proper costs.

9 Judgment in default of dispute

794. After the expiration of the time limited for dispute, if no dispute has been entered the clerk shall, upon the summons

being returned to him with proof of service thereof on the defendant, and upon the request of the plaintiff, sign judgment against the defendant for the full amount of the claim and costs.

795. In case the defendant disputes part of the plaintiff's claim only and the plaintiff elects to accept the undisputed part in full of his claim the clerk shall, upon the request of the plaintiff, sign judgment for the undisputed part, and, unless the defendant has stated in his dispute note that any amount paid in by him with such dispute note was before action tendered to the plaintiff, tax to the plaintiff and include in such judgment the lawful costs. In case the plaintiff elects as above and judgment is signed the clerk shall forthwith notify the defendant that judgment has been so signed against him, but on such judgment execution shall not issue before the expiration of twenty days from the date of the judgment. 10 Judgment in case of partial dispute; Tender; Notice thereof to defendant

796. The judge may set aside any judgment signed under Rules 9 and 10 or stay proceedings thereon on such terms as may seem just. 11 Default judgment may be set aside

797. The clerk shall sign judgment in all cases by endorsing upon the summons over his signature a memorandum showing the authority for entering it, whether by default or otherwise, the items of claim and costs, if any, included therein, and the date of judgment, and shall make an entry in his procedure book that judgment has been entered, and particulars thereof, and such endorsement on the summons shall be the judgment of the court and execution may issue, and other lawful proceedings be taken thereon. 12 Judgment, how signed and execution

798. In all cases when judgment has been entered the clerk may pay out to the party, in whose favour the judgment is, any moneys in court to the credit of the action, unless otherwise ordered. 13 Payment out after judgment

799. If the defendant desires to defend any action or suit he must cause to be delivered by post or otherwise to the clerk before the entry of judgment, a written dispute note in form L in the schedule hereto, in which shall be stated briefly the nature or grounds of his defence, and where a claim is disputed in part only he shall state what part thereof or what items he disputes. If he alleges tender before action he must state in his dispute note the time and place of such tender and pay into court the amount tendered. The defendant shall in his notice of dispute give his post office address. 14 Dispute note; Tender; Defendant's address

800. A defendant in any action may set off or set up by way of counterclaim against the claim of the plaintiff any right or claim whether such set-off or counterclaim sounds in damages or not; such set-off or counterclaim shall have the same effect as if such relief were sought in a cross-action, so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross-claim. 15 Set-off or counterclaim

801. If a dispute is entered the action shall be tried at the place at which a sitting of the court is held nearest to the place where 16 Place of trial

the cause of action arose or where the defendant or any one of the defendants resides or carries on a business at the time the action is entered and the place of trial in each action shall be named by the plaintiff in the statement of his claim.

17 Setting down for trial

Time of trial

802. After the filing by the defendant of his dispute note the clerk shall set the cause down for trial at the place named in the summons, and it shall come on for trial at the first sitting of the court held at such place after the expiration of forty days from the date of service of the summons, exclusive of the day of service and of the first day of such sitting.

18 Place of trial wrongly laid

803. Where in the opinion of the judge having regard to the provisions of Rule 16, the place of trial has been wrongly named by the plaintiff, he shall have the power either to change the place of trial on such terms as to costs or otherwise as to him seems just, or in his discretion to order the plaintiff to pay any extra costs occasioned to the defendant by reason of the place of trial having been so wrongly laid.

19

804. The place of trial in all actions entered previous to the promulgation of these Rules shall be fixed by the judge, having regard to the provisions of Rule 16.

20 Motion to strike out dispute note and for judgment

805. The above Rules shall in no wise affect the right of the plaintiff to move to strike out the said dispute note and for judgment or in any way curtail the powers given under Rule 28 hereof.

21 Representation at trial

806. Any party to an action may be represented on the trial in person or by a solicitor or agent; provided that such agent be not a solicitor or barrister under suspension or struck off the rolls.

22 Postponement of trial

807. At any time before the trial of the action either of the parties may on reasonable notice to the other party or at the trial without notice apply for a postponement of the trial, and the judge may thereupon give such direction as to postponement and as to costs as he may deem fit.

23 Service of papers

808. All notices, summonses to show cause and orders required to be served upon any party to the action may, unless otherwise ordered by the judge, be served by mailing the same to him by registered post to the post office address given by him to the clerk of the court in the statement of his claim or in his dispute note, or if there is no dispute note or no address is given by the defendant, then to the defendant's address given in the statement of the plaintiff's claim.

24 Costs of action wrongly brought or where less than $100 is recovered

Judge may order set-off

809. Unless the judge shall otherwise order, in case any action falling within the class provided for in these Rules is brought under the general procedure and the plaintiff succeeds, or in case in an action of debt brought under the general procedure to recover over $100 the plaintiff recovers less than that sum, his costs shall be taxed as though the action had been brought under the provisions of these Rules; and in any such action the judge may order that the defendant shall be entitled to set

off his taxed costs of suit between solicitor and client, and if such set-off be ordered so much thereof as exceeds the taxable costs of defence which would have been incurred had the proceedings been had under these Rules shall on entering judgment be set off and allowed by the clerk against the plaintiff's costs to be taxed, or against the costs to be taxed and the amount of the judgment if it be necessary, and if the amount of the costs so set off exceeds the amount of the plaintiff's judgment and taxed costs the defendant shall be entitled to judgment for the excess against the plaintiff.

810. In every case where a solicitor is employed by the successful party, the clerk, in addition to all other costs, shall, unless otherwise ordered, tax to the successful party a solicitor's fee equal in undefended actions to five per centum and in defended actions to ten per centum of the amount of the judgment recovered if such fee is taxable to the plaintiff, or to the defendant upon a counterclaim or equal to ten per centum of the amount claimed by the plaintiff or by the defendant in his counterclaim, if such fee is taxable to the defendant in respect of the plaintiff's claim, or to the plaintiff in respect of the defendant's counterclaim: 25 Solicitor's fees

Provided that in no case shall the fee so taxable be less than $1, and except as herein provided no other counsel or solicitor fee shall be taxable or payable between party and party.

811. There shall be paid to the clerk or deputy clerk and sheriff or deputy sheriff or sheriff's bailiff respectively for their services in actions and suits within the provisions of these Rules the fees prescribed by the tariffs of clerk's and sheriff's fees in "The Small Debt Tariff" contained in the schedule hereto. 26 Clerk and sheriff's fees

812. Witnesses and interpreters in actions and suits within the provisions of these Rules shall be entitled to the fees and remuneration set forth in "The Small Debt Tariff" contained in the schedule hereto and such fees shall be taxable to or against the successful party: 27 Witnesses' and interpreters' fees

Provided that the judge may in any case direct the taxation to either party of the reasonable costs and expenses of obtaining evidence by commission or otherwise. Costs of evidence

813. Except as to the matters specially provided for in these Rules the general procedure and pratice in the District Court (except the rules relating to examinations for discovery before trial) where not inconsistent herewith shall be adopted and applied in actions brought under these Rules. 28 General procedure may apply

814. It shall not be necessary upon the commencement of any proceeding or in the issue of any process in actions coming under the provisions of these Rules for any party to file a *praecipe*, nor shall it be necessary to endorse upon any such process the name of the person by whom or on whose behalf the same was issued. 29 *Praecipe* and endorsement of process not necessary

815. No proceedings under these Rules shall be deemed invalid for informality provided the same are in substantial compliance with the requirements of these Rules as to such proceedings. 30 Informalities not to invalidate

FORM H.

Rule 4.

SUMMONS—SMALL DEBT PROCEDURE.

Canada
Province of Alberta.
In the District Court of the District of.....
BETWEEN:
.....of.....
Plaintiff
and
.....of.....
Defendant.

To.....the above named defendant.

The plaintiff demands of you $.....as shown by his claim hereto attached or endorsed hereon. If the amount of the claim, with eighty-five cents for the costs of this summons, and the amount of the service fees, which may be ascertained from the person by whom this summons is served, or from the.....clerk of this court at be paid to the said..... clerk within.....days from the service of this summons on you, no further proceedings will be taken. If you dispute the claim or any part thereof you are to give to the.....clerk, within the above mentioned time, or cause him to receive the same by mail within the said time, the dispute note hereto attached or one to the like effect, together with the sum of twenty-five cents for his fees, otherwise the.....clerk may sign judgment against you by default for the plaintiff's claim and costs.

And take notice that in case you do so dispute the plaintiff's claim the cause will be tried at the first sittings of this court held at..... after the expiration of forty days from the date of service of this summons upon you.

Dated at....., in the Province of Alberta, this.....day of.....AD.. 19.....

By the Court.

(L.S.)
Clerk of the Court.

Claim.....$
Costs (exclusive of service fees)$

NOTICE TO THE DEFENDANT.

In case you pay the amount of the claim or file a dispute note you must furnish the.....clerk of the court with your post office address.

If you dispute the plaintiff's claim your dispute note should state whether you dispute the whole amount claimed or a part of it, and should set out the grounds of your dispute, and any cross-claims you have against the plaintiff or any defence you desire to set up based on the *Statute of Limitations* or other Statute. If you allege tender before action you must state in your dispute note that such tender was made, and when, and pay the amount tendered into court with your dispute note.

In default of your filing a dispute note final judgment may be entered against you for the whole amount claimed, or in case of dispute of part of the claim, for such part as is not disputed, and costs.

If the whole or any part of the claim is disputed the case will be tried, unless you receive notice to the contrary, at the first sittings of this court at.....held after the expiration of forty days from the date of service of this summons upon you, and in calculating the forty days both the day of the service and the day of the opening of the court are to be excluded.

Take notice that on the day of the trial you should produce all the books and papers necessary to prove your case or in any way connected with your transactions with the plaintiff.

Summonses for witnesses and for production of documents may be obtained at the office of the court mentioned in the within summons, upon payment of the proper fees.

The ensuing sittings of this court at.....will be held as follows, viz.:

At.....o'clock a.m., on.....the..... day of.....A.D. 19.....;

At.....o'clock a.m., on.....the..... day of.....A.D. 19.....

FORM L.

Rule 14.

In the District Court of the District of.....

BETWEEN:

.....

Plaintiff,

and

.....

Defendant.

Take notice that I dispute the plaintiff's claim on the following ground:

Dated at.....in the Province of Alberta, this.....day of.....A.D. 19.....

My post office address is

.....

Defendant.

FORM K.

Rule 5.

SMALL DEBT.—AFFIDAVIT OF SERVICE.

In the District Court of the District of.....

BETWEEN:

.....

Plaintiff,

and

.....

Defendant.

I,....., of..... in the Province of Alberta,.....make oath and say:

1. That I did on.....the..... day of.....A.D. 19..... personally serve..... the above named defendant with a true copy of the summons herein hereunto annexed by delivering the said copy to and leaving the same with the said defendant at.....

2. That at the time of such service there was*.....the said copy of summons so served a true copy of the particulars of claim*..... upon the said annexed summons.

3. That at the time of such service there was also attached to the said copy of summons a blank form entitled in this cause of which the form marked "L" is a true copy.

4. That to effect such service I necessarily travelled..... miles.

Sworn to before me at....., in the Province of Alberta, this.....day of.....A.D. 19.....

A.....*in and for the Province of Alberta.*

**Attached to or endorsed upon.*

Where service is effected by registered mail clause 4 shall be omitted and the following substituted for clause 1:

1. That I did on....., the..... day of.....A.D. 19....., serve the defendant with

a true copy of the summons herein hereunto annexed by enclosing such copy in an envelope addressed to the defendant at..... and posting the same by registered post in the post office at..... and hereunto annexed, marked "A", is the receipt from the postmaster at.....for such registered letter and hereunto annexed, marked "B", is the receipt of the defendant for such registered letter.

SMALL DEBT TARIFF.

The following fees and no other shall be paid under the Small Debt Procedure Rules:

CLERK'S FEES.

1. Receiving claim, numbering and entering in Procedure Book	$.25
2. Issuing summons	.50
3. Garnishee summons or writ of replevin, including examining affidavits	.50
4. Every original subpoena	.25
5. Every copy of summons, garnishee or subpoena furnished by the clerk	.10
6. Receiving and entering dispute note	.25
7. Receiving payment of money into court without dispute note	.25
8. Every chambers summons or judge's order including entering	.25
9. Every commission to examine witnesses	.25
10. Entering every judgment by default, including search for dispute and taxation of costs and necessary filings	.25
11. Entering every judgment after trial or order for judgment, including appointment for taxation and taxation, if any	.25
12. Every reference to the clerk, per hour actually engaged, including necessary appointments	.75
13. Every exemplification of judgment or every certificate	.25
14. Every writ of execution, or renewal thereof	.25
15. Copies of documents, per folio	.10

SHERIFF'S FEES.

1. For service of every summons under the seal of the court, or judge's summons, or order on each person (except summons to witness) including entry, affidavit of service and return—	
Where claim does not exceed $20	.30
Where claim exceeds $20 and does not exceed $60	.40
Where claim exceeds $60	.50
2. Service of subpoena or notice on witness, including affidavit of service and return	.15
3. Enforcing every writ of execution by seizure or enforcing any writ of replevin or attachment in the nature of execution, each—	
Where claim does not exceed $20	.50
Where claim exceeds $20 and does not exceed $60	.75
Where claim exceeds $60	1.00
4. Every mile necessarily travelled to serve summons or process or other necessary papers, or in going to replevy goods, or to seize under writ of execution where money is paid on demand or made on execution, or case settled after seizure	.10
5. Every schedule of property seized or replevied, including affidavit of appraisal, when necessary—	
Not exceeding $20	.30
Exceeding $20 and not exceeding $60	.50
Exceeding $60	.75
6. Every bond, when necessary, when prepared by the sheriff, including affidavits of justification and of execution	.50
7. Every notice of sale, not exceeding three, under execution or attachment, each	.10

8. Reasonable allowances and disbursements, necessarily incurred in the care and removal of property—

(*a*) If a sheriff removes property seized, he is entitled to the necessary disbursements in addition to the fees for seizure and mileage.

(*b*) If assistance is necessary in the seizure, or securing, or removal, or retaining of property, the bailiff is allowed for disbursements for such assistance.

9. If execution or process in the nature of execution be satisfied in whole or in part, after seizure and before sale, whether by action of the parties or otherwise, the sheriff shall be entitled to charge and receive 3 per cent. on the amount directed to be levied, or on the amount of the value of the property seized, whichever shall be the lesser amount.

10. Poundage on executions and on attachments in the nature of executions, 5 per cent., exclusive of mileage for going to seize and sell, upon the amount realized from property necessarily sold.

All charges for disbursements are to be submitted to the clerk for taxation, subject to appeal to the judge.

The sheriff must in all cases endorse a memorandum of all his charges on the back of the process or state them on a separate slip of paper attached thereto so that the clerk may conveniently tax the sheriff's charges for fees and disbursements.

The clerk is in all cases to sign the memorandum of his taxation and preserve it among the papers in the cause, together with the process, for future reference.

WITNESS FEES.

1. Attendance per day	$1.00
2. Mileage, each way	.10

Where railway can conveniently be used witness shall only be allowed such sum as would be sufficient to pay railway fare in coming to and returning from place of trial, in no case to exceed mileage at above rate.

INTERPRETERS.

1. Per day employed	2.00

RULES AS TO CASES STATED UNDER SECTION 761 OF "THE CRIMINAL CODE."

816. An application to a justice of the peace to state and sign a case under said section 761 shall be in writing and be delivered to such justice or left with some person for him at his place of abode within seven days after the making of the conviction, order, determination or other proceeding questioned. Such application shall state the grounds upon which the proceeding is questioned, and whether the appeal is to be to the Appellate Division or to a judge. **1** Application to J.P. to state and sign a case

817. Within fourteen days after such application has been so delivered or left for him the justice shall state and sign and deliver to the appellant, a case setting forth the facts of the case and the grounds on which the proceeding is questioned, stating— **2** J.P. to state and sign case

(*a*) The substance of the information or complaint;

(*b*) The names of the prosecutor (or complainant) and defendant;

(*c*) The date of the proceeding questioned;

(*d*) A copy of the evidence (if any) in full as taken before the justice of the peace;
(*e*) The substance of the conviction, order, determination or other proceeding questioned;
(*f*) The grounds on which the same is questioned;
(*g*) The grounds upon which the justice supports the proceeding questioned if the justice sees fit to state any.

Appellant to pay fees, etc.

(2) But the justice shall not deliver said case until after the appellant shall have entered into a recognizance and paid the fees as provided by section 762.

3 Appeal in case of refusal

818. In the event of the justice declining or refusing to state a case, the appellant may apply to the court or judge for a rule as provided by section 764.

4 Filing of stated case

819. Within twenty days after the delivery to the appellant of a case stated by a justice, the appellant shall file the same or cause it to be filed—

(*a*) With the registrar of the court; or
(*b*) If he desires the matter to be heard and determined by a judge in chambers with the clerk of the court at the place where the appeal is intended to be heard; provided that upon sufficient cause for the delay being shown the court or judge, as the case may be, may hear and determine the matter although the case was not delivered within said twenty days.

5 Appeal, when heard by Appellate Division

820. When the case stated has been delivered to the registrar the same shall, unless the court or a judge otherwise orders, be heard at the next sittings of the appellate division, which shall be not sooner than fourteen days after the delivery of the case stated to the registrar, and the appellant shall give to the respondent ten days' notice in writing of the time and place of hearing the appeal.

6 Appeal, when heard by judge in chambers

821. When the case has been delivered to the clerk of the court, the appellant shall within five days after such delivery apply to the judge in chambers to fix a time and place for the hearing of the appeal, and the judge shall thereupon appoint a time and place for such hearing, and a copy of such appointment shall be served upon the respondent, or as the judge may direct; provided that if such application be not made within said period of five days, the judge may, upon sufficient cause for the delay being shown, fix such time and place notwithstanding that said period may have elapsed.

7 Recognizance

822. The justice before or immediately after delivering a case stated to the appellant shall transmit the recognizance to the proper clerk of the court if the appeal is to a judge, or to the registrar if the appeal is to the Appellate Division.

8 Deviation from Rules not to invalidate proceedings

823. Slight deviation from strict compliance with these Rules shall not invalidate any proceeding or thing if the court or judge sees fit to allow the same, either with or without requiring the same to be corrected.

CROWN PRACTICE

Practice and Procedure of the Supreme Court in Relation to Mandamus, Certiorari, Habeas Corpus, Prohibition, and Quo Warranto Both in Criminal and Civil Matters and Costs in Such Matters.

QUASHING A CONVICTION, ORDER, ETC.

1 Procedure to be by notice of motion

824. In all cases in which it is desired to move to quash a conviction, order, warrant or inquisition, the proceeding shall be by notice of motion in the first instance instead of by *certiorari* or by rule or by order *nisi*. [O. 1289.]

2 Notice of motion, service and contents of

825. The notice of motion unless otherwise directed by a judge shall be served, at least seven days before the return day thereof, upon the magistrate, justice or justices making the conviction or order or issuing the warrant or the coroner making the inquisition, and also upon the prosecutor or informant, and upon the Attorney General, and upon the officer to whom, or upon the clerk of the office to which, the proceedings are required by law to be transmitted, and it shall specify the objections intended to be raised. [O. 1290.]

3 Endorsement of notice

826. Upon the notice of motion shall be endorsed a notice in the following form addressed to the magistrate, justice or justices, coroner, or officer or clerk, as the case may be.

"You are hereby required forthwith after service hereof to return to the clerk of the Supreme Court at..... (*as the case may be*) the conviction (*or*....., *as the case may be*), herein referred to together with the information and evidence, if any, and all things touching the matter as fully and entirely as they remain in your custody, together with this notice.

"Date.....

"To *A. B.* magistrate at.....(*or as the case may be*).

"(Signed) *C. D.*.....

Solicitor for the Applicant."

4 Return of conviction, order, etc.

827. Upon receiving the notice so endorsed the magistrate, justice or justices, coroner, officer or clerk, shall return forthwith to the office mentioned therein the conviction, order, warrant or inquisition together with the information and evidence, if any, and all things touching the matter and the notice served upon him with a certificate endorsed thereon in the following form:

"Pursuant to the accompanying notice I herewith return to this honourable court the following papers and documents, that is to say—

"(1) The conviction (*or as the case may be*);

"(2) The information and the warrant issued thereon;

"(3) The evidence taken at the hearing;

"(4) (All other papers or documents touching the matter.)

Certificate of transmission

"And I hereby certify to this honourable court that I have above truly set forth all the papers and documents in my custody and power relating to the matter set forth in the said notice of motion."

(2) If the proceedings have been transmitted as required by law by the magistrate, justice or justices or coroner, to the proper officer he shall in lieu of the certificate above set out certify to the fact of such transmission together with the date thereof.

Return of certificate where proceedings not received

(3) If the proceedings have not been received by the officer to whom or the clerk of the office to which the same are by law required to be transmitted, such officer or clerk shall return a certificate of the fact in lieu of the certificate above set out.

Copy of rule to accompany notice of motion

(4) A copy of this Rule shall appear upon or be annexed to the notice of motion served upon the magistrate, justice or justices, coroner, clerk or officer from whom the return is required. [O. 1292.]

5

Certificate to have same effect as return to *certiorari*

828. The certificate shall have the same effect as a return to a writ of *certiorari*. [O. 1293.]

6

Return day to be within six months after conviction, etc.

829. The motion shall not be entertained unless the return day thereof be within six months after the conviction, order, warrant or inquisition and unless the applicant, if not the Attorney General, is shown to have deposited with the clerk of the court to whom the certificate is required to be returned as security for costs of the application the sum of $25.00 or such other sum as a judge may direct.

Security for costs

Security for costs on motion for prohibition, etc.

(2) The requirements of this Rule as to security for costs shall also apply to motions for prohibition, *mandamus* or *quo warranto*.

QUO WARRANTO.

7

Quo warranto requirements on application

830. No application in the nature of a *quo warranto* except an *ex-officio* application shall be made without leave of a court or judge and unless at the time of application for such leave an affidavit be produced by which some person shall depose on oath that such application is made at his instance as relator; and such person shall be deemed to be the relator in case an order shall be made, and shall be named as such relator on such application. [N.S. 48.]

8

Specification of objections in notice of motion

831. Every objection intended to be made to the title of a defendant on an application in the nature of a *quo warranto* shall be specified in the notice of motion, and no objection not so specified shall be raised by the relator without the special leave of the court or a judge. [N.S. 49.]

9

Costs

832. The court or judge may refuse the application in the nature of a *quo warranto* with or without costs, and in its or his discretion may, upon such notice as may be just, direct the costs to be paid by the solicitor or other parties joining in the affidavits in support of the application, although not the relator. [N.S. 50.]

10

Substitution of relator

833. A new relator may by leave of the court or a judge be substituted for the one first named on special circumstances being shown. [N.S. 51.]

11 Several *quo warranto* applications

834. Where several applications in the nature of a *quo warranto* have been made against several persons for the usurpation of the same office and all upon the same or like grounds of objection, the court or a judge may order such applications to be consolidated, or may order all proceedings to be stayed upon all but one, until judgment be given in that one; provided always that no order be made to consolidate or stay any proceedings against any defenant unless he give an undertaking to disclaim if judgment be given for the Crown upon the application which proceeds. [N.S. 52.]

12 Defendant may file disclaimer in an undefended application

835. If the defendant in an application in the nature of a *quo warranto* does not intend to defend, he may, to prevent judgment by default, file a disclaimer in the office of the clerk or deputy clerk of the court, as the case may be, and deliver a copy to the relator or his solicitor. Upon the disclaimer being filed judgment of ouster may be entered and the costs taxed as in judgment by default. [N.S. 53.]

MANDAMUS.

13 *Mandamus* service of notice

836. The notice in the case of an application for *mandamus* shall be served upon every person who shall appear to be interested or likely to be affected by the proceedings. The court or a judge may direct notice to be given to any other person or persons and adjourn the hearing for that purpose.

14 Unsuccessful defendant to pay costs

837. Any person whether he has been so served or not who can make it appear to the court or a judge that he is affected by the proceeding for *mandamus* may show cause against the application and shall be liable to costs in the discretion of the court or judge if the order should be made or the prosecutor obtain judgment. [N.S. 56.]

15 Immunity for obeying a *mandamus*

838. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a *mandamus* issued by the court or any judge thereof. [N.S. 65.]

16 Affidavit in support of application

839. No order of *mandamus* shall be granted unless at the time of application an affidavit be produced by which some person shall depose upon oath that such application is made at his instance as prosecutor and the name of such person shall appear as the person at whose instance it is made. [N.S. 69.]

HABEAS CORPUS.

17 *Habeas corpus* writ abolished

840. No writ of *habeas corpus* shall be necessary but an order may be made to the like effect, which order shall have the like consequences that the writ would have.

18 Order for discharge of prisoner

841. On the argument of a motion for *habeas corpus* the court or a judge may in its or his discretion direct an order to be drawn up forthwith for the prisoner's discharge, which order shall be a sufficient warrant for any gaoler or constable, or other person, for his discharge.

19 Notice of motion, when returnable

842. The notice of motion for prohibition, *certiorari*, *quo warranto*, *mandamus* or *habeas corpus* shall be returnable before a judge of the Supreme Court or the Appellate Division. [O. 1294.]

20 Appeal

843. When the motion is made to a judge an appeal shall lie from his order to the Appellate Division of the court by leave of the judge or of the Appellate Division, but subject to such right of appeal his decision shall be final. [O. 1297.]

GENERAL.

21 Costs in discretion of judge

844. In all proceedings under these Crown Practice Rules the costs shall be in the discretion of the court or judge who shall have full power to order either the applicant or the party against whom the application is made, or any other party to the proceedings, to pay such costs or any part thereof according to the result.

22

845. When costs are allowed the fees for all services shall be in the discretion of the taxing officer, not exceeding $25.00; provided that the judge may, in his discretion, allow an increased fee in a proper case.

23 Attachment for contempt, etc.

846. Proceedings for attachment for contempt, for disobedience to any writ, judgment or order issued or made under these Rules shall lie and shall be the same as for disobedience to any writ, judgment or order in a civil action.

24 Crown Office Rules when followed

847. When no other provision is made by these Rules the procedure and practice shall as far as may be, be regulated by the Crown Office Rules for the time being in force in England, and subject thereto and to these Rules the practice shall be the same as in civil proceedings in the Supreme Court.

FORMS.

25 Forms

848. The forms for the time being in use in England under the said Crown Office Rules where applicable, and where not applicable, forms of the like character as near as may be, shall be used in all proceedings except where otherwise ordered by these Rules.

RULES AS TO CONVEYANCE OF PRISONERS UNDER SENTENCE TO GAOL.

1 Conveyance of prisoners to goal

849. Whenever a person is sentenced to imprisonment in a common goal in the Province of Alberta, by any court in such province, the sheriff or deputy sheriff of any judicial district in such province or any bailiff, constable or other officer, or other officer or other person by his direction, or by the direction of the court may, if no form of warrant is provided by The Criminal Code therefor, convey to the goal named in the sentence any convict sentenced to be imprisoned therein and shall deliver him to the keeper thereof, without any further warrant than a copy of the sentence taken from the minutes of the court before which the convict was tried, and certified by a judge or the clerk or acting clerk of such court.

850. The foregoing shall also apply where, according to the sentence imposed upon the convict, he is made liable to the punishment of death or whipping, or any other punishment. 2

851. The keeper of the common gaol mentioned in such certified copy of sentence is authorized, and hereby required, to receive the convict mentioned in such certified copy of sentence into his custody in the said gaol, and he and the sheriff of the judicial district in which such gaol is situated, and all other persons and authorities whose duty it is to do so, are hereby authorized and required to carry out and execute the sentence mentioned in such certified copy of sentence, according to its tenor and effect. 3

RULES AS TO CONTROVERTED MUNICIPAL ELECTIONS.

[*The following Rules are promulgated under the authority of Section 41 of Chapter 20 of the Statutes of 1911-12.*]

852. The practice upon proceedings under *The Controverted Municipal Elections Act* where not provided for by the said Act shall be governed by the practice for similar proceedings in the District Court. 1 Controverted municipal elections

853. The costs to be allowed for such proceedings shall be those allowed for similar proceedings in the District Court in actions under $400. 2

854. The following form or forms to the like effect shall be used: 3

FORMS.

I. TITLE.

All proceedings shall be intituled as follows:

"In the district court of the district of.....

"In the matter of a Controverted Municipal Election.

"The King

on the relation of *A. B.*....., *Relator*,

VS.

"*C.D.* (*the person whose relation is contested*), *Respondent.*"

II. RECOGNIZANCE.

(*Formal part as above.*)

WE, *A.B.* (*the relator*) and *E.F.* and *G.H.* (*the sureties*) acknowledge that we owe our Sovereign Lord the King his heirs and successors, the following sums, viz.: I and the said *A.B.* the sum of $200 and we the said *E.F.* and *G.H.* each the sum of $100 of good and lawful current money of Canada upon the condition hereinafter stated:

Whereas the said *A.B.* has made application for leave to serve a notice of motion in the nature of a *quo warranto* upon *C.D.*, a member of the Municipal Council of..... to determine the right of the said *C.D.* to his seat as such member; If, therefore, the said *A.B.* do prosecute the said motion with effect and do pay to the said *C.D.* any costs which may be adjudged to him against the said *A.B.* then this recognizance to be void, otherwise to stand in full force and virtue.

Taken and acknowledged before me this..... day of.....19....

(*Judge or Commissioner, as the case may be.*)

III. AFFIDAVIT OF JUSTIFICATION.

I, *E.F.*, one of the sureties named in the foregoing (*or* annexed, *or as the case may be*) recognizance, make oath and say:

That I am possessed of property situate in the Province of Alberta which is not exempt from seizure under execution of the value of at least.....dollars over and above what will pay all my just debts and all other sums for which I am surety.

SWORN before me at the.....
of.....
in the Province of Alberta this.....
.....day of.....
19....

A Commissioner, &c.

RULES AND ORDERS UNDER THE WINDING-UP ACT.

PETITION TO WIND UP COMPANY.

1 Petition, title of

855. Every petition for the winding up of any company by the court, and all notices, affidavits and other proceedings under such petition shall be intituled "In the matter of the Winding-up Act," and of the company, naming the company, to which such petition relates.

2 Notice of application and petition, service of

856. A copy of such petition endorsed with, or accompanied by, the notice of the application for the winding-up order required by the eighth section of said Act, shall be served at the principal or last known principal office or place of business of the company, if any such can be found, upon any member, officer or servant of the company there; or in case no such member, officer or servant can, after due diligence, be found there, then in the manner provided for service on a corporation of ordinary process or in such other manner as the court or a judge shall direct.

3 Contents of notice. Copies of affidavits, etc.

857. The notice of the application shall mention the affidavits and other material upon which the applicant intends to rely in support of the application, and copies of such affidavits and other material, or of any portion thereof, shall be furnished by the solicitor of the petitioner, or by the petitioner if he shall

present the same in person to the solicitor or any officer of the company requiring the same, within twenty-four hours after the demand therefor.

858. Every contributory or creditor of the company shall be entitled to be furnished by the solicitor for the petitioner, or by the petitioner if he shall present the petition in person, with copies of the petition, affidavits, and material aforesaid, or of any portion thereof required, within twenty-four hours after the same shall have been by him demanded, on paying at the rate of ten cents per folio of one hundred words for each such copy. 4 Contributories, etc., entitled to copies of papers on payment of fee

859. Upon every such petition and upon every copy thereof served, there shall be endorsed the name or firm and place of business of the solicitor by whom such petition is being presented; and when such solicitor is or are agents for another or other solicitor, then there shall be further endorsed on such petition and copies the name or firm and place of business of the principal advocate or advocates. 5 Endorsement of petition by solicitor

860. Every party presenting such petition in person shall cause to be endorsed or written upon every such petition and copy his name and address, and also when his place of residence is not in the place where the clerk's office is kept, another address in the place where the clerk's office is kept to be called his address for service, at which address notices, orders, summonses, warrants, and other documents, proceedings and written communications may be left for him. 6 Endorsement of address for service

861. Every such petition, and the affidavits and other material intended to be used in support thereof, shall, on or before the day of service of notice of the application for a winding-up order, be filed in the office of the clerk of the court of the judicial district in which the head office of the company is situate, and unless so filed such petition, affidavits or material shall not be read or used upon the application without special leave of the court or a judge. 7 Filing petition and affidavits

862. Such petition shall be presented before the presiding judge in chambers, and the application may then be heard and determined by him, or adjourned to another day or time to be heard in chambers or before the court, as he or any other judge, before whom the same shall come in chambers, shall direct. 8 Disposition by judge in chambers

LIQUIDATORS.

863. If the petitioner shall desire to have a liquidator appointed upon the first presentation of the petition without any adjournment, or to have a provisional liquidator then appointed, he shall in the notice of his application mention the name of the liquidator or provisional liquidator sought to be appointed, and he shall also in such case as soon as possible after the filing of his petition, apply to a judge for directions as to the mode of service of notice of the application for the appointment of a liquidator or provisional liquidator and the parties to be served with such notice. 9 Application for appointment of liquidator

10 Winding up order

864. If it shall appear to the judge in chambers, upon the first presentation of the petition that all proper parties have had sufficient notice, the judge may then make the order for winding up the company with the appointment of a liquidator; if not, the application shall be then adjourned for such time as the judge shall think proper, and notice of the name of the party sought to be appointed liquidator and of the time to which the application is adjourned shall be given to such or such other parties, and in such manner as to the judge shall seem proper pursuant to the twentieth section of said Act.

Adjournment of application

11 Evidence to be furnished judge on applying for directions for service of notice

865. To enable the judge to determine what shall be the most satisfactory method of giving notice of the application to appoint a liquidator, and the parties to whom such notice should be given, the petitioner shall, in applying to a judge for directions respecting such service, furnish to the judge the best evidence obtainable by him, on reasonable inquiry, to the satisfaction of the judge, as to the numbers of the creditors, contributories and shareholders respectively, and their places of residence, and the judge may require such further evidence on these or other points to be furnished as he shall think important for the purpose.

12 Contents of notice

866. The notice of the application for the appointment of a liquidator shall show that the application is to be for the appointment of a person (giving his name, address and occupation) therein named, or such other person as the court or judge shall think fit to appoint, and upon the application the court or judge may appoint the person named in the notice, or any other person with or without further notice to any person, as may seem proper.

13 Evidence of qualifications of liquidator

867. The application for the appointment of a liquidator shall be accompanied by satisfactory evidence of the qualifications and character of the party sought to be appointed as liquidator and of his fitness for the office.

14 Appointment of provisional liquidator

868. A provisional liquidator may be appointed at any time after the filing of the petition and before the first appointment of a liquidator, and either before or after the application for winding up the company shall have first been made in chambers. Such appointment may be made with or without notice, as to the judge from whom the appointment is asked shall seem proper, and such provisional liquidator shall not be required to give security unless such shall be specially ordered upon or after his appointment.

15 Sureties of liquidator

869. The liquidator shall, on each occasion of passing his account, and also whenever the court or a judge shall so require, satisfy the court or judge that his sureties are living and resident in Alberta, and have not become insolvent; and in default thereof he may be required to enter into fresh security within such time as shall be directed.

16 Death, etc. of liquidator

870. In case of the death, removal or resignation of a liquidator, another or others shall be appointed in his stead, as in the case of a first appointment, and the proceedings for the purpose may be taken by such party interested as may be authorized by the court or a judge to take the same.

871. The liquidator shall, with all convenient speed, after he is appointed, proceed to make up, continue, complete and rectify the books of account of the company, and shall provide and keep such books of account as shall be necessary, or as the court or a judge may direct for the purpose aforesaid, and for showing the debts and credits of the company, including a ledger which shall contain the separate accounts of the contributories and in which every contributory shall be debited from time to time with the amount payable by him in respect of any call to be made under said Act. 17 Duties of liquidator

872. The accounts of the liquidator shall be filed in the office of the clerk of the court, at such time as may from time to time be required by the court or a judge, and such accounts shall, whenever required by the court or a judge, and upon notice to such parties (if any) as the court or a judge shall direct, be passed and verified in the same manner as receivers' accounts. 18 Accounts of liquidator

PROCEEDINGS UNDER WINDING-UP ORDER.

873. Within ten days after the issue of the winding-up order, or such further time as the court or a judge shall direct, an appointment shall be obtained from a judge to proceed with the winding up of the company, and notice thereof served upon all persons who may have appeared upon the hearing of the petition, and upon such other persons (if any) as the judge shall direct; in default of the petitioner so proceeding to obtain such appointment, the court or a judge may, if it shall seem proper, give the carriage and prosecution of the winding up to any other person interested. 19 Appointment to proceed and notice thereof

(2) This Rule shall apply to cases in which winding-up orders have already been made under said Act, in respect of which the period of ten days fixed for taking out the appointment shall be computed from the time when these Rules take effect and come into operation. Rule to apply to orders already made

874. At the time thus appointed, a time or times shall, if the judge thinks fit, be fixed for the proof of debts, for the list of contributories to be brought in, for the liquidator to file his accounts, and directions may be given as to the advertisements to be issued for all or any of such purposes, and generally as to the proceedings and the parties to attend thereon. The proceedings under the order shall be continued by adjournment, and, when necessary, by further appointment, and any such direction as aforesaid may be given, added to or varied, at any subsequent time, as may be found necessary. 20 Time for proof of debts, etc.

PROOF OF DEBTS.

875. For the purpose of ascertaining the debts and claims due from the company, and of requiring the creditors to come in and prove their debts or claims, an advertisement shall be issued at such time as the judge shall direct. Such advertisements shall fix a time for the creditors to send in their names and addresses, and the particulars of their debts or claims, the nature and amount of the security (if any) held by them respec- 21 Advertisement for debts, etc.

tively, with the valuation thereof on oath, required by the sixty-second section of the said Act, and the names and addresses of their solicitors (if any) to the liquidator, and appoint a day for adjudicating thereon.

22 Creditors need not prove claims unless required by notice

876. The creditors need not attend the adjudication or prove their debts or claims unless they are required to do so by notice from the liquidator or from any creditor, contributory, shareholder, or member of the company; but upon such notice being given they are to come in and prove their debts or claims at the time therein specified, or such other time as the court or judge may allow.

23 Duties of liquidator as to debts and claims

877. The liquidator shall investigate the debts and claims sent in to him, and ascertain, so far as he is able, which of such debts and claims are justly due from the company; and he shall make out and leave with the clerk of the court a list of all the debts and claims sent to him, distinguishing which of the debts and claims or parts of debts and claims so claimed, are in his opinion justly due and proper to be allowed without further evidence, and which of them in his opinion ought to be proved by the creditors; and he shall make and file with the said clerk, prior to the time appointed for adjudication, an affidavit setting forth which of the debts and claims in his opinion are justly due and proper to be allowed without further evidence, and stating his belief that such debts and claims are justly due and proper to be allowed and the reasons for such belief.

24 Judge may allow debts, etc.

878. At the time appointed for adjudicating upon the debts or claims, or at any adjournment thereof, the judge may either allow the debts and claims upon the affidavit of the liquidator, or may require the same, or any of them, to be proved by the claimants, and adjourn the adjudication thereon to a time to be then fixed.

25 Notice to creditors whose debts not allowed on affidavit

879. The liquidator shall give notice to the creditors whose debts or claims have not been allowed upon the affidavit, that they are required to come in and prove the same by a day to be therein named, being not less than four days after such notice, and to attend at a time to be therein named, being the time appointed by the advertisement or by adjournment, or other appointment, as the case may be, for adjudicating upon such debts or claims.

26 Debts to be estimated according to value at commencement of proceedings

880. The value of such debts and claims as are made admissible to proof by the nineteenth section of said Act shall, so far as is possible, be estimated according to the value thereof at the commencement of the proceedings for winding up the company.

27 Costs of proof of claims

881. Such creditors as come in and prove their debts or claims pursuant to notice may be allowed their costs of proof, and in any case a creditor seeking to prove a claim may be ordered to pay costs.

28 Deposit of papers with clerk

882. The liquidator shall deposit with the clerk of the court the papers to be transmitted to the court under the sixty-seventh section of said Act. Notice of the time and place fixed for hearing

and determining the contestation shall be served upon the opposite party, and such other parties as the judge shall direct, at least four days before the day so fixed. Service of notice of hearing

883. If by examination of the books, accounts or papers of the company, or by any other means, the liquidator is led to believe that any person is a creditor of, or has a claim against, the company, for which such party is entitled to rank upon the assets of the company, and such party shall not have sent in to the liquidator notice of his claim, the liquidator shall mention such claim and the probable amount thereof, according to the best information he shall have been able to obtain, in the affidavit required by Rule No. 23, with the address, or supposed address, of such person, if the liquidator shall be able to give the same. 29 Claims on books of which liquidator has not notice

884. On the making of any dividend, except one declared as a final dividend, unless the court or a judge shall otherwise order, there shall be reserved for each such person shown in such affidavit to be supposed to be a creditor of, or to have a claim against, the company as aforesaid, and not to have sent to the liquidator notice of his claim, an amount proportionate to his said claim, and a copy of the dividend sheet, showing the amount so reserved, shall be mailed to such person, as well as to the creditors whose claims shall have been duly allowed. Any amounts retained may, by leave of the court or a judge, upon the declaration of a subsequent dividend, be included in the sum divided among those whose claims shall have been duly allowed, without any further reservation for any person not having given such notice. 30 Reservation of dividend etc. where liquidator has no notice of claims

885. Any person giving notice, after the declaration of a dividend, of a claim to rank as one of the creditors of, or as having a claim against, the company, shall be compelled to make proof of his claim before the court or a judge. Such proof shall, unless otherwise ordered, be made at the expense of the party making such claim. Any such party for whom a sum has been so reserved as aforesaid, and whose claim shall have been allowed, shall be collocated upon the next dividend sheet, after the allowance of his claim for the proper amounts of previous dividend so reserved, proportionately to the amount at which hisclaim shall have been allowed. 31 Proof of claims made subsequent to declaration of dividend

LIST OF CONTRIBUTORIES.

886. The liquidator shall, with all convenient speed, after his appointment, or at such time as the court or judge shall direct, make out and leave with the clerk of the court a list of the contributories of the company. Such list shall be verified by the affidavit of the liquidator, and shall, so far as is practicable, state the respective addresses of, and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories, and such list may, from time to time, by leave of the court or a judge, be varied or added to by the liquidator. 32 List of contributories

887. Upon such list of contributories being so left, the liquidator shall obtain an appointment to settle the same, and shall give notice in writing of such appointment to every person included 33 Appointment to settle list, notice of

in such list, and stating in what character, and for what number of shares or interest, such person is included in the list; and in case any variation or addition to such list shall at any time be made by the liquidator, a similar notice in writing shall be given to every person to whom such variation or addition applies.

34 Service of notice

888. All such notices shall be served four days before the date appointed to settle such list, or such variation or addition.

CALLS.

35 Application to make call on notice of motion

Service of contributories

Memo. of amount

889. Every application to the court or a judge to make any call on the contributories, or any of them, shall be made upon notice of motion, stating the proposed amount of such call; such notice of motion shall be served four days at least before the day appointed for making the call, on every contributory proposed to be included in such call; and upon the copy so served on each contributory shall be written or printed a memorandum specifying the amount which such contributory will be required to pay, upon the basis of the call proposed.

36 Contents of order for call

890. An order for a call may be made so as to direct payment not merely of the amount of the call, but also of the amounts or balances payable by the respective contributories, or by such of them as may seem proper, and the time and place of payment; provided that no contributory shall be thus ordered to pay a larger sum than specified in the memorandum upon the notice of motion, without notice to him or his solicitor that a larger sum is to be paid by him; but the court or judge may, upon such notice as may seem just, or, if the party appear, then without further notice, cause the memorandum to be amended so as to increase the amount or otherwise, and may direct the liquidator or other party having the conduct of the summons or order *nisi*, to pay any additional costs to be thus incurred, and may make such other terms or conditions as may seem proper.

37 Notice of intended call

891. If the court or a judge shall so direct, notice of the intended call may be given by advertisement, and no further notice of the application need then be given to any contributory unless the court or a judge shall so order. When notice of the intended call is given by advertisement no notice need be given of the particular amount to be required of each contributory; and in any case the memorandum specified in Rule No. 35 may be dispensed with.

38 Order where memo. not served

892. Unless for special reasons it shall seem just and proper, where the memorandum specified in Rule 35 is not served either by advertisement or otherwise, the order shall specify merely the amount of the call to be made, and shall not direct payment of specific sums by the respective contributories.

39 Service of order and notice of amount due

893. A copy of an order for a call shall be forthwith served upon each of the contributories included in such call; and upon each contributory so included not directed by the order itself to pay a specific sum in respect of such call, there shall be served,

with the order, a notice from the liquidator, or other party having the conduct of the proceedings for a call, specifying the amount or balance due from such contributory (having regard to the provisions of the said Act and any amendments thereof), in respect of such call; but an order for a call need not be advertised, unless for any special reason the court or a judge shall so direct. Order need not be advertised unless directed

894. At the time of the making of an order for a call, if the order shall not specify the particular sum payable by each contributory included in the call, or if the court or a judge shall otherwise deem it proper, the further proceedings relating thereto shall be adjourned to a time subsequent to the day appointed for the payment thereof, and afterwards from time to time so long as may be necessary. At the time appointed by any such adjournment, or upon a motion to enforce payment of the call, and upon proof of the service of the order and notice of the amount due, required by Rule No. 39 and nonpayment thereof, an order may be made for such of the contributories who have made default, or for such of them against whom it shall be thought proper to make such order, to pay the sum which by such former order and notice they were respectively required to pay, or any less sum which may appear to be due from them respectively; and any order may be made that shall seem just and proper for payment by such contributories or any of them, of the costs of such adjournment or further application and order, or of any portion thereof. **40** Adjournment of call proceedings

895. In any case in which the liquidator or other party having the conduct of an application for or in respect of a call at any stage, shall have adopted a more expensive method of enforcing such calls than he might under these Rules have adopted, in any respect, such liquidator or other party may be ordered to pay the additional costs so incurred, if the same shall not be ordered to be paid by, or if so ordered shall not have been realized from, any contributory or party. **41** Payment of additional costs

896. Any contributory may deposit with the clerk of the court a receipt or acknowledgment of the bank into which an amount is payable by him in respect of a call, or of the proper officer of the court, where the same is payable into court, or of the party authorized by the order to receive such payment, which receipt or acknowledgment shall show the amount so paid in respect of such call. **42** Receipt of bank for amount of call

897. Where a contributory is, by the order for a call or by a subsequent order, directed to pay a specific amount in respect of a call, then at the expiration of the time for payment, if no such receipt shall have been so deposited with the clerk of the court, or if the receipt or acknowledgment deposited shall not show the proper amount to have been paid, executions may without further order be issued by the clerk of the court, for realizing the amount so ordered, or the deficiency (if any) appearing by such receipt or acknowledgment, and with this may be included any sum for taxed costs where the same can be conveniently included according to the usual practice. **43** Issue of execution on nonpayment of call

PROCEEDINGS BEFORE A JUDGE.

44 Application to be made in chambers

898. Any application to a judge for any purpose under the winding-up order shall be made to him in chambers unless the court or a judge shall in the particular matter otherwise direct. All such applications in chambers shall, unless the case be a proper one for an *ex parte* order, be made upon notice or appointment of the judge in writing; but the court or a judge may require any application to be made upon petition. An order shall be drawn up in every case unless otherwise directed.

45 Affidavit in support of application for sanction of compromise, etc.

899. Every application for the sanction of the court or a judge to a compromise or other arrangement with any contributory or other person indebted or liable to the company, or with creditors or persons claiming to be creditors of the company, shall be supported by the affidavit of the liquidator that he believes that the proposed compromise will be beneficial to the company and the reasons for such belief, and showing (where the state of affairs of such contributory or other person is one of such reasons), that the liquidator has investigated the affairs of such contributory or other person, and the result of such investigation. The facts supporting such reasons for the liquidator's belief shall, as far as conveniently practicable, be proved, and upon the application such further evidence may be required as may to the court or judge appear proper.

46 Sanction to be testified by memo. of clerk

900. The sanction of the court or judge under the last preceding Rule shall be testified by a memorandum signed by the clerk on the agreement of compromise or arrangement, unless any party shall desire to appeal from the decision of the court or judge, in which case an order shall be drawn up and issued for that purpose.

ORDERS.

47 Signing and entry of orders

901. All orders made in chambers shall be signed by the judge, as orders made in actions at law, and all orders before being delivered out, shall be entered at length in a book to be kept for that purpose by the clerk of the court, unless in cases of urgency the court or a judge shall otherwise direct, in which case the order shall as soon as possible be left with the clerk to be entered, or a duplicate order shall be issued, as may be directed.

ADVERTISEMENTS.

48 Advertisements

902. Where an advertisement is required for any purpose, the same is to be published only in such newspaper or other publication, and for such number of times, as may be specially provided by these Rules, or by order of the court or a judge.

ADMISSION OF DOCUMENTS.

49 Admission of documents

903. Any party to any proceeding in court or in chambers, under said Act, may, by notice in writing in the form required in suits at law, or to the like effect, with such changes as the nature of the circumstances may require, call on any other party thereto competent to admit the same, to admit any document,

saving all just exceptions, or to admit that a copy of a document duly registered or filed in any land titles office, or filed under any ordinance respecting mortgages and sales of personal property, or respecting lien or receipt notes or orders for chattels, duly certified by the registrar or officer in charge of the office where the same is registered or filed, or his deputy, to be a true copy of the original document so registered or filed, is a true copy of such original document and sufficient evidence of the due execution of the original, and that the same was registered or filed in the office stated in such certificate at the time therein stated. In case of any refusal or neglect so to admit, the costs of proving such document, or the registration or filing of the same, shall be paid by the party so neglecting or refusing, unless a judge shall be of opinion that the refusal to admit was reasonable; and no costs of proving any document, or the registration or filing thereof, where any portion of the Rule is applicable, shall be allowed, unless such notice shall have been given, except in cases where the omission to give such notice has been in the opinion of the taxing master (subject to appeal) a saving of expense.

REGISTER AND FILE OF PROCEEDINGS.

904. The clerk of the court shall attend before the court or judge upon such proceeding, and shall keep a register of all proceedings in chambers or in court in each matter under this Act; except on an appeal or other matter before the full court, when the registrar of the court, or some one appointed by him or the court, shall attend and keep a register of such proceeding with, and in the same manner as in other matters before the full court. **50** Register of proceedings

905. All documents or proceedings required to be deposited or filed in court, shall be deposited or filed with the clerk of the court in whose office the petition has been filed, except on appeals to the full court, when documents and proceedings connected therewith shall be filed with the registrar. **51** Deposit and filing of documents

906. All orders, exhibits, admissions, memorandums and all other documents relating to the winding up of any company, not required by these Rules or the usual practice, or the special direction of the court or a judge, to be filed in court, shall be filed and kept by the liquidator in his own office, and shall be produced in court or before a judge, and otherwise, as may be required. Upon the termination of the winding-up proceedings, all such documents, and all minute and account books referring to the company's affairs shall be deposited with the clerk, unless or until it shall be otherwise ordered by the court or a judge. **52** Custody of documents not filed

907. Every contributory of the company, and every creditor thereof, whose debt or claim has been allowed, shall be entitled at all reasonable times to inspect such documents as are filed or deposited with the liquidator, clerk of the court, or registrar, in reference to proceedings under said Act, free of charge, and to take copies thereof, or extracts therefrom at his own expense, not removing the same from the office where the same are filed or deposited, or to be furnished with any such copies or extracts on paying therefor at a rate not exceeding five cents per folio of one hundred words. **53** Inspection of documents

PROVISIONAL LIQUIDATOR.

54 Rules to apply to provisional liquidators

908. All rules relating to liquidators shall, so far as the same are applicable, and subject to the directions of the court or a judge in each case, apply to provisional liquidators.

ATTENDANCE AND APPEARANCE OF PARTIES.

55 Attendance and appearance of parties

909. Every person for the time being on the list of contributories left by the liquidator with the clerk of the court, and every person having a debt or claim against the company, allowed by the judge, shall be at liberty, at his own expense, to attend the proceedings in reference to the winding up of the company, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of; but if the court or judge before whom any proceeding is taken shall be of opinion that the attendance of any such person upon any such proceeding has occasioned any additional costs which ought not to be borne by the funds of the company, such person may be directed to pay such costs or a gross sum in lieu thereof; and such person shall not be entitled to attend any further proceedings until he shall have paid the same, and the liquidator shall have the right to take for collection of the same any proceedings which might be taken for the collection of any costs awarded by any order of the court or a judge.

56 Appointment of representative of class

910. The court or a judge may from time to time appoint any one or more of the contributories or creditors, as he thinks fit, to represent before him, at the expense of the company or otherwise as shall seem proper, all or any class of the contributories or creditors, upon any question as to a compromise with any of the contributories or creditors, or persons so appointed. In case more than one person shall be so appointed, they shall unite in employing the same solicitor to represent them.

57 Conditions of attendance at proceedings in chambers

911. No contributory or creditor shall be entitled to attend any proceedings at the chambers of the judge, unless and until he has entered in a book to be kept for that purpose by the clerk of the court, his name and address, and the name and address of his solicitor (if any), and upon any change of his address, or of his solicitor, his new address, and the name and adress of his new solicitor.

SERVICE OF SUMMONS, NOTICES, ETC.

58 Service by post sufficient unless otherwise specifically required

912. Service upon contributories or creditors shall be effected, except when personal or other service is specifically required, by sending the notice, or a copy of the summons or order or other proceeding, through the post, in a prepaid registered letter, addressed to the solicitor of the party to be served (if any), or otherwise to the party himself at the address entered or last entered pursuant to the last preceding Rule; or if no such entry has been made, then if a contributory, to his last known address or place of abode, and if a creditor to the address given by him pursuant to the foregoing Rule No. 21, and such notice or copy of summons, order or other proceeding, shall be considered as served, at the time the same ought to be delivered in the due

course of delivery by the post office, and notwithstanding the same may be returned by the post office; the judge shall not be obliged to receive proof on oath of such time, but may act on his own knowledge of the course of the mails, or such information as he may think reliable.

913. No service under these Rules shall be deemed invalid by reason that the Christian name, or any of the Christian names, of the person upon whom service is sought to be made, has been omitted or designated by initial letters, in the list of contributories or creditors, or in the summons, order, notice or other document wherein the name of such contributory or creditor is contained, provided the court or judge is satisfied that such service is in other respects sufficient. **59** Omission of Christian name, etc. not to invalidate service

SOLICITOR OF LIQUIDATOR.

914. The solicitor of the liquidator shall conduct all such proceedings as are ordinarily conducted by solicitors of the court; and where attendance is required on any proceeding in court or chambers the liquidator need not attend in person, except in cases where his presence is necessary in addition to that of his solicitor, or the court or a judge shall direct him to attend. **60** Solicitor to conduct proceedings, etc.

FORMS.

915. Until other forms are directed, the forms in use in winding-up proceedings in England, with such variations as may be necessary to adapt them to the practice under these Rules and the said Act, and as the circumstances of each case may require, may be used. **61** Forms

916. When a winding-up order has been made the court or a judge may refer and delegate to the master or an officer of the court any of the powers conferred upon the court. **62** Delegation of powers of court

COSTS.

917. The fees allowed to solicitors, counsel, clerks, sheriffs, and the registrar, in proceedings under said Act shall so far as applicable and unless otherwise directed by the court or a judge, be those authorized under Schedules C and E of the Rules as to Costs. **63** Fees

918. Where an order is made in court or in chambers for payment of any costs, unless otherwise directed, the same shall be taxed by the clerk, subject to appeal from such taxation as in ordinary proceedings in the Supreme Court. **64** Taxation by clerk

COMPUTATION OF TIME.

919. In the computation of time, under these Rules, or under any notice, summons or order, made or given under the provisions hereof, unless otherwise specially mentioned, the same shall be reckoned exclusively of the first day and inclusively of the last day. **65** Computation of time

POWER OF JUDGE.

66 Power of judge to enlarge or abridge time

920. The power of the court, or of a judge in chambers, to enlarge or abridge the time for doing any such act, or taxing any proceeding, to adjourn or review any proceeding and to give any direction as to the course of proceeding, is unaffected by these Rules.

GENERAL DIRECTIONS.

67 General practice to apply

921. The general practice of the court, including the course of proceeding and practice in judge's chambers, shall in cases not provided for by said Act and amendments thereto, or these Rules, and so far as the same are applicable and not inconsistent with the said Acts or these Rules, apply to all proceedings for winding up a company.

RULES RELATING TO APPLICATIONS FOR AND GRANT OF LETTERS OF ADMINISTRATION, PROBATE AND GUARDIANSHIP.

INTERPRETATION.

1 Interpretation

922. Where the following words and expressions occur in these Rules or forms, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears:

(*a*) "Will" shall include all testamentary instruments and writings of which probate may now be granted;

(*b*) "Administration" shall include all letters of administration of the effects of deceased persons whether with or without the will annexed and whether granted for general, special or limited purposes;

(*c*) "Application" and "grant" shall mean respectively an application for and a grant of letters of probate, letters of administration with or without the will annexed, and letters of guardianship as the case may be (and shall include resealing);

(*d*) The expression "judge" or "the judge" shall mean a judge of a District Court;

(*e*) "District" shall mean "judicial district";

(*f*) "Noncontentious business" shall mean the business of obtaining probate, administration or guardianship where there is no contention as to the right thereto, including the granting of probates and administration through a District Court when the contest is terminated, and all business of a noncontentious nature to be taken in a District Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate of administration;

(*g*) "Contentious business."—A proceeding or matter shall be adjudged contentious when there are conflicting claims as to the right to obtain or retain a grant and where proceedings in respect of such claims are taken by one person against another.

JUDGE MAY SIT AT ANY TIME.

923. Subject to Rules of Court a judge shall have power to sit and act at any time for the transaction of business in probate, administration and guardianship matters. 2 Judge may sit at any time

NONCONTENTIOUS BUSINESS.

924. Every application for probate or administration shall be made to the court of the district in which the deceased was residing at the time of his death or in case he was residing outside the province to the court of any district within which he had at his death any property. Applications for the appointment of guardians shall be made to the court of the district within which the infants reside or of the district within which property belonging to the infants is situate. 3 Application for probate, etc.

925. Every application for probate, administration or guardianship shall be in Form 1 in Schedule 1 hereto, or to the like effect, and shall show whether the same is made by the applicant in person or by his solicitor, the capacity in which he applies, and the addresses of both the applicant and his solicitor, if any, shall appear thereon. 4 Form of application

926. Unless by direction of the judge no probate, or letters of administration with the will annexed shall issue until after the lapse of seven days from the death of the deceased, and no administration shall issue until after the lapse of fouteen days from the death of the deceased. 5 Time of issue of administration and probate

927. Every application for administration to an intestate's estate shall be accompanied by the administrator's oath and bond, by all necessary renunciations and by an affidavit or affidavits showing— 6 What application for administration of intestate to show

(*a*) Full name and occupation of deceased;
(*b*) The place and date of death;
(*c*) The permanent residence of the deceased at date of death, and the places at which he resided for six years next preceding his death so far as can be ascertained;
(*d*) Age of deceased; and status of deceased, *i.e.*, whether leaving a wife or husband, or dying a bachelor, widower, spinster or widow;
(*e*) Relationship of applicant to deceased, explaining reasons why the application is not made by husband, widow, child or nearer relative than applicant, if any, and if not, stating the fact;
(*f*) That the applicant is of the full age of twenty-one years;
(*g*) Search for will;
(*h*) Particulars, valuation and location of property in respect of which application is made;
(*i*) That to the best of the applicant's knowledge, information and belief no other application for a grant has been made.

928. Every application for administration with the will annexed shall be accompanied by the administrator's oath and bond and by an affidavit or affidavits giving the same information 7 What application for administration with will annexed to show.

as in the case of applications for administration to an intestate's estate except search for will but showing—

(*a*) Identification of will;
(*b*) Execution of will;
(*c*) The persons in whose possession the will has been, and its condition on every change of possession since execution, unless dispensed with by the judge;
(*d*) That the testator did not intermarry with any person since the execution of the will;
(*e*) That the testator was of the full age of twenty-one years at the date when he made his will;
(*f*) Renunciation when necessary;

and explaining why the application is not made by the executor, if any, and where the application is made by a beneficiary, stating the fact, and, if the applicant is not the residuary legatee, why the application is not made by such legatee;

(*g*) An undertaking to surrender the grant to the court if so required by the court or a judge.

8 What application for probate to show

929. Every application for probate shall be accompanied by the executor's oath and by an affidavit or affidavits showing all the facts required to be shown on an application for administration with will annexed, the relationship to deceased of the applicant, or interest under the will (unless such relationship is stated in the will.)

9 What application for guardianship to show

930. Every application for letters of guardianship shall be accompanied by the applicant's bond and affidavit as to the execution of the trust, the consent of such of the infants as are fourteen years of age or over, and an affidavit or affidavits showing—

(*a*) Date and place of death and of abode of parent or parents of infants;
(*b*) Names, ages (with dates of birth) and places of abode of infants;
(*c*) Relationship of applicant to the infants and that he is of the full age of twenty-one years;
(*d*) Particulars, valuation and location of real and personal property of infants and the annual value of the same;
(*e*) Eligibility and fitness of applicant and proof of notice by publication under Rule 13, where publication is required by the judge.
(*f*) An undertaking to surrender the grant to the court if so required by the court or a judge.

10 Special and limited administration

931. Special and limited grants of administration such as have been made in England prior to the, or under any, statutory provision of the Province of Alberta may continue to be made with such limitations, upon such evidence and under such conditions as may seem expedient. Any such limitations and conditions shall clearly appear in the grant and in the oath of the adminstrator.

11 Administration limited to personal estate

932. A person entitled to take out letters of administration shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate, but where

limited administrations are applied for it must be made to appear that every person entitled in distribution to the property has consented or renounced or has been cited and failed to appear except when the judge sees fit otherwise specially to direct.

933. Every will in respect of which probate or administration is granted shall be marked by the judge, by the executor or administrator and by one of the witnesses thereto when possible and by the person before whom they are respectively sworn. It shall not be marked on a sheet on which no part of the will is written, even though such sheet is annexed to the will. 12 Will, how marked

934. In any case in which the judge shall deem it advisable, notice of an application for letters of guardianship shall be published in such manner as he may direct. 13 Notice of guardianship application

935. Every person to whom a grant of administration or of guardianship is made shall give a bond with at least two sureties in double the value of the property, and the sureties shall together justify to the full amount of such bond; provided that where the property is of small value or the applicant is solely entitled thereto and it appears that no bond is required for the protection of creditors, the judge may accept a bond with only one surety or may dispense with such bond; and provided also that the bond of a guarantee company approved of by the Lieutenant Governor in Council may be accepted in lieu of a bond with sureties. The execution of every bond, except that of a guarantee company, shall be verified by the affidavit of the subscribing witness who shall *inter alia* depose to the fact of the parties being of the full age of twenty-one years. 14 Bond and sureties

936. No clerk of any District Court shall become a surety of an administration or guardianship bond. 15 Clerk not to be a surety

937. Any person interested in the estate may by leave of the court or judge institute proceedings in his own name on the bond or bonds without an assignment thereof to him. 16 Who may institute proceedings on bond

938. Any person intending to oppose the issue of any grant may personally or by his solicitor file a caveat in the office of the clerk of a District Court in which the application is pending. 17 Filing of caveat

939. The caveat shall be signed by the party on whose behalf it is filed or by his solicitor and shall set out the name, residence and occupation of the caveator, his address or that of his solicitor, full particulars of his interest in the person or estate and shall be accompanied by an affidavit or statutory declaration verifying the statements in the caveat and showing that it is not entered for the purpose of delaying or embarrassing any person interested in the person or estate in respect of which it is made. 18 What caveat is to contain

940. No further step shall be taken in respect of the issue of a grant after the receipt by the clerk of the court in which the 19 Filing of caveat a stay

matter is pending, of a caveat under the provisions of Rule 17 until such caveat has expired or been discharged or withdrawn:

Provided that no caveat shall affect any grant sealed on the day on which the caveat is filed, unless notice in writing of such caveat has been received in the office where the grant is sealed prior to such sealing.

20 Application for grant notwithstanding caveat

941. Notwithstanding the filing of a caveat an application may be made by any person claiming to be entitled to a grant, but no further proceedings shall be taken upon such application until the caveat has expired or been discharged or withdrawn.

21 Duration of caveat

942. A caveat shall remain in force for three months from the filing, unless it is otherwise ordered or the caveat is withdrawn, and shall then expire, unless the time is extended by order of a judge. Where a caveat has expired or has been withdrawn or discharged no further caveat in respect of the same subject matter shall be filed without the leave of the judge.

22 Motion to discharge caveat

943. Any person whose application for a grant is affected by a caveat may serve notice of motion returnable not less than five days after service, calling upon the caveator to show cause why it should not be discharged, and the procedure on such application shall be that prescribed in Rules 54 and 55.

23 Service on caveators, how made

944. Where the caveat is entered by the caveator personally, service of any notice or proceeding may be made upon him by mailing it to him by registered post at the address given in the caveat.

24 Ancillary letters and resealing

945. Where any probate or letters of administration or other legal document purporting to be of the same nature or an exemplification thereof granted by a court of competent jurisdiction in the United Kingdom or in any province or territory of the Dominion or in any other British province, colony or dependency is produced to the clerk of a District Court for any judicial district of the Province of Alberta in which there is property belonging to the deceased, together with an inventory and valuation of the property situate in the Province of Alberta, and the prescribed fees are paid as on a grant of probate or administration the probate or letters of administration or other document aforesaid shall under the direction of the judge be sealed by the said clerk with the seal of the court for the judicial district for which the said clerk is appointed, and shall thereupon be of the like force and effect in the province as if the same had been originally granted by the said District Court, and shall be subject to any order of the last mentioned court or the judge thereof or any appeal therefrom as if the probate or letters of administration had been granted thereby. Such certified copy shall be certified by an official of the court out of which the original issued, or by the clerk of the court to which the application for resealing is made.

Security on issue of ancillary letters

(2) Letters of administration shall not be sealed with the seal of the court until a certificate has been filed under the hand of the registrar, clerk or other officer of the court where the

same issued that security has been given in a sum sufficient to cover as well the assets within the jurisdiction of said court as the assets within this province or in the absence of such certificate until security is given to the judge as in the case of granting original letters of administration.

(3) Upon the certified copy filed, the clerk shall endorse the particulars of the sealing of the original. Endorsement on copy filed

946. If in any case it is in the interests of the estate of a deceased person that the same be forthwith administered or that someone other than the personal representative be appointed to administer the estate the judge may on application with such notice if any as he may direct appoint as administrator the public administrator or such other person as he deems proper and may in making such appointment dispense with the giving of security. C.O. c. 21, r. 588. **25** Administration by other than personal representative

947. Before probate of a will or letters of administration of the estate and effects of a deceased person have been granted any person may institute proceedings to restrain anyone from dealing or intermeddling with the estate. When such proceedings have been taken in good faith for the preservation of the property the party instituting such proceedings shall be entitled to costs of the action unless the court or judge shall otherwise order. **26** Proceedings to restrain from intermeddling

948. An executor or administrator may, without instituting any action or proceeding, apply to a judge *ex parte* for an order for advertising for creditors or other persons having claims against an estate, and the judge may in such order direct that a notice, in the form to be approved of by such order, shall be published in such newspaper or newspapers as may be directed by such order. **27** Application *ex parte* for order for advertising

949. Upon such notice as aforesaid being duly published, and after the expiration of the time named in such notice, such executor or administrator as the case may be, shall be at liberty to distribute the assets of the testator or intestate or any part thereof amongst the parties entitled thereto, having regard only to the claims of which such executor or administrator has then notice, and he shall not be liable for the assets or any part thereof so distributed, to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or any part thereof, but nothing in this Rule shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same. **28** Distribution of assets

950. Every creditor or other person presenting or sending in a claim to any executor, administrator or trustee shall verify the same by a statutory declaration and shall therein state whether he holds any security for his claim or any part thereof and shall give full particulars of the same; and if such security is on the estate of the debtor or on the estate of a third party for whom such debtor is only secondarily liable he shall put a specified value thereon and the executor, administrator or **29** Verification of claims

trustee may either consent to the right of the creditor or person presenting the claim to rank for the claim after deducting such valuation or he may require from the person presenting the claim an assignment of the security at the specified value to be paid out of the trust property or estate when sufficient is realized therefrom, and in such case the difference between the value at which the security is retained by the executor, administrator or trustee and the just amount of the gross claim shall be the amount for which the creditor or other person shall rank in respect of the estate.

Claims based on negotiable instruments

(2) If a creditor or other person holds a claim based upon a negotiable instrument upon which the debtor is only indirectly or secondarily liable and which is not mature or exigible, such creditor or other person shall be considered to hold security within the meaning of this Rule and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof but after the maturity of such liability and its nonpayment he shall be entitled to amend and revalue his claim.

Failure to value security

(3) In case a person presenting a claim holds security for his claim or any part thereof and he fails to value such security as required by this Rule a judge of the Supreme Court sitting in chambers may on summary application by the executor, administrator or trustee or by any other person interested in the trust property or estate, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed upon such security and notified in writing to the executor, administrator or trustee within a time to be limited by the order such claimant shall in respect of the claim or the part thereof for which the security is held be wholly barred of any right to share in the proceeds of such trust property or estate; and if a specified value is not placed on such security and notified in writing to the executor, administrator or trustee according to the exigency of such order the said claim or the said part as the case may be shall be wholly barred as against such trust property or estate.

30

Administrator to file verified account within two years

951. Every administrator to whom letters of administration are issued shall within two years after the grant of letters of administration or such further time as the court or judge may allow file in the office of the clerk of the Supreme Court in the district wherein the grant was made a statement and an account verified by his oath showing his administration of the estate and shall apply to the judge usually exercising jurisdiction in such district to have his accounts passed and allowed, whereupon a summons may be issued calling upon the creditors, next-of-kin and all persons interested in the estate to attend the passing of the accounts.

Remuneration of administrator, etc.

(2) Upon the passing of the accounts the judge may give such directions as to the remuneration of the administrator, the payment of debts or charges, and the distribution of the assets as to him may seem meet, and may direct the payment into court of any moneys to which any person under the age of twenty-one years or any person outside of the province is entitled.

452. Executors and administrators may voluntarily exhibit an inventory of the property of the deceased and render an account of their executorship or administration, or may be called upon to do so, on the application of any person interested in the estate, by order of the judge. **31** Administration accounts

953. When infants or lunatics are interested in an estate, executors and administrators shall within a period of two years after grant made, and sooner if the judge shall so direct, and at intervals of two years thereafter unless otherwise ordered, exhibit under oath a true and perfect inventory of the property of the deceased, and render a just and full account of their executorship or administration. The judge shall upon application made to him for that purpose have power to extend the said period of two years. **32** Accounts where infants or lunatics

954. Guardians may voluntarily exhibit an inventory of the property of the infants and render an account of their guardianship or may be called upon to do so on the application of any person interested by order of the judge. The provisions of Rule 32 shall apply to guardians of infants' estates and such guardians shall pass their accounts within the same time and in the same manner as executors and administrators are required to do by that Rule. **33** Accounts of guardians

955. The inventory and accounts shall be filed with the clerk of the court, verified by oath of the executor, administrator or guardian, and thereupon the judge shall, upon application to him fix a time and place for an audit and give directions as to the persons to be served with notice thereof. **34** The inventory to be filed with clerk

956. The general Rules which in the Supreme Court govern references under judgments or orders, and the taking of accounts and the practice and procedure thereof for the time being, so far as the same can be made to apply, shall be adopted in the case of the auditing of an executor's, administrator's or guardian's account by the judge, and the judge may enter into and make full inquiry and accounting of and concerning the whole property of the deceased or of the infants, and the administration and disbursements thereof in as full and ample a manner as can be had and done in the Supreme Court under an administration order, and for such purpose take evidence and decide all disputed matters arising in such accounting, subject to any appeal under the provisions of *The District Courts Act.* **35** Supreme court rules to govern

957. Persons interested in the taking of such accounts or the making of such inquiries shall, if resident within Alberta, be entitled to not less than seven days' notice thereof, and if resident out of Alberta to such notice as the judge shall direct. **36** Length of notice

958. Upon the passing of the accounts the judge may give such directions as to the remuneration of executors, administrators or guardians, the payment of debts or charges and the distribution of the assets as to him may seem meet, and may direct the payment into court of any moneys to which any person under the age of twenty-one years, any lunatic, or any person outside of the province is entitled. **37** Remuneration of executors, etc.

38 Order as to bond

959. On the final winding up of an estate or passing of accounts of a guardian, the judge may order the bond to be cancelled, and the administrator or guardian and the sureties to be discharged.

39 Citations generally

960. Citations, summonses or notices issued by the judge in the exercise of probate jurisdiction may, in the discretion of the judge, instead of being directed to any person or persons by name, be directed generally to the next-of-kin, creditors and other persons interested in the estate, and shall be served personally or by publication or in such manner as the judge shall by order direct.

CLERKS.

40 Books

961. Every clerk of a District Court shall keep such books in probate, administration and guardianship matters as may be prescribed by the Attorney General from time to time. He shall keep such books duly indexed, and shall also keep an index of the names of testators or intestates or of executors or administrators and of guardians and infants, which shall be arranged alphabetically.

41 Filing papers

962. Every clerk shall duly endorse and file all papers received by him and enter a note thereof and of every proceeding in the court in the books to be kept.

42 Small estates, preparing papers

963. When it is so desired by any applicant attending personally at the office of the clerk for grant of probate or administration and the value of property devolving does not exceed $400, the clerk of the court in which the application is to be made may prepare the application and all other forms necessary in non-contentious business without the intervention of a solicitor; but in no other case shall he prepare the papers for grant, and in no other case shall any person other than the applicant or his solicitor, either directly or indirectly, prepare the application or other papers to be used in any application in probate or administration matters, nor shall any person other than the applicant or his solicitor or counsel be permitted to appear in probate, administration or guardianship matters.

43 Applications to be numbered, endorsed and entered

964. The clerk shall properly number and endorse the date of receipt of all applications for the grant of probate, administration or guardianship received by him in the order in which they are received, and an entry thereof shall be made in the books to be kept for that purpose, with a number prefixed to correspond with the number on the application.

44 Succession duty

965. Immediately upon receipt by him of the duplicate statement required to be filed with the clerk of the court under the provisions of section 6 of "*The Succession Duties Ordinance*" (or under any similar provision which may be hereafter passed), the clerk shall transmit one copy by registered letter to the Provincial Treasurer, and file the other copy with the papers in the matter to which it relates in his office. No grant of probate or administration shall issue, nor shall any grant be resealed, until after the receipt by the clerk of a certificate from the Pro-

vincial Treasurer fixing the amount of duty to be paid in respect of the estate, if any, nor until such duty is paid or security furnished as required by law.

45 Orders to be noted

966. Every order made by the judge upon or in reference to any application shall be noted by the clerk in the procedure book and a copy thereof filed.

46 Procedure book, grants and revocations

967. When a judge makes an order for the grant of probate, administration, or guardianship, or for resealing a grant, the clerk shall record such grant or order in the procedure book, and in case of a grant of probate or letters of administration with the will annexed, an exact copy of the will and codicil, if any, to which such probate or administration relates shall be underwritten. If a grant or order be afterwards revoked a note of such revocation shall be entered across the record of grant in red ink.

47 Bonds to be recorded

968. Administration and guardianship bonds and the affidavits of justification and of execution shall be filed with and recorded by the clerk in the proper books.

48 Grants to be signed and sealed

969. All grants of probate and letters of administration and guardianship shall be signed by the clerk and sealed with the seal of the court from which they are issued, and the copy of the will and codicil, if any, annexed to a probate or to letters of administration shall be authenticated by the signature of the clerk.

49 Entry of caveats

970. Every clerk shall number, endorse and enter all caveats lodged with him in the same manner as provided in respect to applications for grants.

APPEALS.

50 Appeals

971. Any person considering himself aggrieved by any order or judgment of a District Court or being dissatisfied with the determination of a judge thereof in point of law on any matter or cause relating to probate, administration or guardianship may, subject to the Rules of Court in respect of appeals, appeal to the Appellate Division.

51 Stay on entry of appeal

972. When an appeal is so lodged, the judge or the District Court shall upon the application of the appellant order all proceedings in the matter to be stayed upon such terms as he may see fit.

52 Papers to be forwarded on appeal

973. Upon a certificate from the registrar or acting registrar of the Appellate Division that an appeal has been lodged in his office, the clerk of the court shall forthwith transmit (at the expense of the appellant) to the registrar or acting registrar of the Appellate Division the documents, instruments, affidavits, and papers in the matter or cause appealed, deposited or filed in such District Court office, together with the judgment or decision of the judge. The registrar or acting registrar of the Appellate Division shall, upon the disposal of the appeal and the issue of

the judgment on such appeal, return the said documents, instruments, affidavits and papers, together with a certified copy of the judgment of the Appellate Division to the clerk of the court from whom he received same.

53 Copies and exemplification

974. Any person may demand and on payment of the proper fees receive from the clerk in whose custody the papers are a copy of any paper, proceeding or document in administration, probate or guardianship matters, which copies may be certified by the clerk under seal, if so required. The clerk shall also furnish exemplifications of probates, letters of administration, or guardianship.

CONTENTIOUS BUSINESS.

54 Commenced by notice

975. All contentious business shall be begun by way of notice of motion before the judge in chambers. On the return of the notice the judge may hear the matter in a summary way on the affidavits filed or on *viva voce* testimony, or he may direct an issue to be tried for the purpose of ascertaining any facts in dispute, and may fix a time for the trial of such issue. Upon the order directing the issue being filed, the issue shall proceed to trial as if it were an ordinary case in the District Court.

55 Order on hearing

976. Upon such summary hearing or upon the trial of the issue, as the case may be, the judge may make an order disposing of the matter involved, and may make such order as to costs as he may deem proper, and such order shall be final, subject only to appeal under Rule 50.

PROOF OF WILL IN SOLEMN FORM.

56 Proof of will in solemn form

977. When a will is voluntarily propounded for proof in solemn form, the judge shall after examining the petition and proofs fix a time and place for taking evidence in support of the will, and grant a summons to see proceedings at such time and place. This summons is to be served upon all persons having or claiming to have an interest in the question of the validity of the will.

57 Evidence

978. At the time and place fixed the person propounding the will shall produce for examination one or more of the witnesses to the will, if he or they are alive, and shall give such further evidence generally of the validity as the judge may desire.

58 Proceedings if contentious

979. When any of the persons summoned attends and takes part, the proceedings if they go beyond the cross-examination of the witnesses to the will, shall be continued and disposed of as provided for in Rules 54 and 55.

59 Notice to parties and proof

980. The same method of notifying parties and proving the will shall, as nearly as may be, be followed in a case where an executor is put upon proof of a will in solemn form by compulsion.

60 Caveat to ensure proof in solemn form

981. A person who files a caveat merely to ensure a will being proved in solemn form shall state in the caveat that he only desires to cross-examine the witnesses produced in support of

the will, and he shall thereupon be at liberty to do so, but shall be subject to liability in respect to costs in the discretion of the judge.

DEPOSIT OF WILLS AND CODICILS OF LIVING PERSONS IN DISTRICT COURTS.

982. Wills and codicils of living persons may be deposited in the office of the clerk of the District Court, subject to the following rules and regulations: **61** Deposit of wills of living persons

(1) The will or codicil to be deposited must be enclosed in a sealed envelope and delivered to the clerk of the court, either by the testator himself, or by some person specially authorized by him to deposit the same on his behalf.

(2) The will or codicil so deposited will not be delivered up to any person, but must remain in the clerk's office until after the testator's death, unless revoked by him in manner hereinafter mentioned.

(3) In case the testator himself deposits his will or codicil, he will be required to sign his name, or acknowledge his signature, in the presence of the clerk of the court to an endorsement on the envelope, in which the will or codicil is enclosed, to the following effect:

"This sealed packet contains the last will and testament (*or* codicil to the last will and testament, *or* last will and testament and codicil thereto), bearing date respectively (*here state the dates of all the papers enclosed*), of *A.B.*, of etc., whereof *C.D.*, of etc., and *E.F.*, of etc., are appointed executors, and the same are brought into the office of the clerk of the District Court of the District of....., by me for safe custody, there to remain deposited until after ny decease, unless previously withdrawn by me in person."

The residences of the testator and of the executors are to be set forth in this endorsement and also the date of the signature.

(4) In case the testator authorizes some other person to deposit his will or codicil for him he will be required to subscribe his name in presence of an attesting witness to an endorsement on the envelope in which the will or codicil is enclosed, to the following effect:

"This sealed packet contains the last will and testament (*or* codicil to the last will and testament, *or* last will and testament and codicil thereto) of me, *A.B.*, of, etc., whereof *C.D.*, of, etc., and *E.F.*, of, etc., are appointed executors, and I authorize *G.H.* to deposit the same for safe custody in the office of the clerk of the court of the District of....., there to remain deposited until after my decease, unless previously withdrawn by me in person. (Signed) *A.B.* Witness, *K.L.*"

The residences of the testator and of the executors, and the date of signature are to be set forth in this endorsement.

(5) The packet containing the will or codicil must be accompanied by an affidavit from the attesting witness to the signature of the testator to the above endorsement, to the effect that the signature of the testator to the endorsement (witnessed by the deponent), is in the proper handwriting of such testator, and was by him signed in the deponent's presence on the day mentioned in the endorsement, and that the signature "*K.L.*" is in the

proper handwriting of the deponent. An affidavit will also be required from the person authorized to deposit the packet to the effect that the sealed packet produced for the purpose of being deposited for safe custody in the office of the clerk of the court of the District of....., and on the back of which the deponent has signed his name, is at the time of making the affidavit precisely in the same state, plight, and condition as when received by the deponent from the hands of *A.B.* (the testator) on a day to be mentioned as that on which he received it.

(6) The last mentioned affidavit is to be sworn before the clerk of the court to whom the packet containing the will or codicil is delivered.

(7) A minute will be drawn up in duplicate by the clerk of the court setting forth the production of the packet containing the will or codicil and the affidavits (if any), and when and by whom the same were produced, and the declaration of the testator, or his agent, that he deposited the same in the office of the clerk of the court for safe custody, also acknowledging receipt of the packet. One copy of this minute will be delivered to the testator, or his agent, and the other retained in the office of the clerk of the court.

(8) Envelopes for wills and codicils with necessary endorsements and forms of affidavits are to be had on application to the clerk of the court.

(9) In the event of a testator desiring to withdraw a will deposited in the office of the clerk of the court, he will be at liberty to do so upon his producing the original minute of the clerk of the court handed to him on depositing the same or satisfactorily accounting for its absence, and such proof of identity as the clerk of the court may deem necessary.

REMOVAL OF CASES FROM THE DISTRICT TO THE SUPREME COURT.

62 Reference to Supreme Court judge of contention

983. In every case in which an application for grant of probate, administration or guardianship has been made and there is contention as to the grant, and the parties in the case agree, the contention shall be referred to and determined by a judge of the Supreme Court on a case to be prepared, and no grant shall issue on the application until the contention is terminated and disposed of by judgment or otherwise.

63 Removal of contention into Supreme Court

984. Any cause or proceeding in the District Court in which any contention arises as to the grant of probate or administration or in which any disputed question of law or facts may be raised relating to matters and causes testamentary shall be removable by any party to the cause or proceeding into the Supreme Court by order of a judge thereof to be obtained on a summary application supported by affidavit of which reasonable notice shall be given to the other parties concerned.

Terms

(2) The judge making the order may impose such terms as to payment of or security for costs or otherwise as to him seems just, but no cause or proceeding shall be removed unless it is of such nature and of such importance as to render it proper that the same should be withdrawn from the jurisdiction of the

District Court and disposed of by the Supreme Court, nor unless the property of the deceased exceeds $2,000 in value.

985. Upon any cause or proceeding being so removed a judge of the Supreme Court shall have full power to determine and otherwise deal with the same as with any cause or claim originally begun in the said court; and the final order or judgment thereon shall be transmitted together with all papers, to the clerk of the District Court from which the cause or proceeding was removed. **64** Powers of Supreme Court judge. Transmission of order or judgment

986. The fees payable for the performance of duties and services under these Rules to clerks shall be the fees set out in the Rules or contained in schedule 2 hereof. **65** Fees

987. The forms in schedule 1 hereto are to be adopted and followed as nearly as the circumstances of each case will allow in all applications and proceedings under these Rules. **66** Forms

988. The clerk shall tax costs subject to an appeal to the judge. **67** Taxation of costs

SCHEDULE I.

TABLE OF KINSHIP.

Persons applying for administration are to be described in the oath as follows:

A husband as...."The lawful husband."
A wife as....."The lawful widow and relict."
A father as....."The natural and lawful father and next-of-kin."
A mother as....."The natural and lawful mother and only next-of-kin."
A child as....."The natural and lawful child, and only next-of kin," or "the natural and lawful child, and one of the next-of-kin."
A brother as....."The natural and lawful brother."
A sister as....."The natural and lawful sister." If there be no parents living, the brother or sister is further to be described as "one of the next-of-kin," or "the only next-of-kin."
An uncle as....."The lawful uncle" and "one of the" or "only next-of-kin."
An aunt as....."The lawful aunt."
A nephew as....."The lawful nephew" and "one of the" or "only next-of-kin."
A niece as....."The lawful niece" and "one of the" or "only next-of-kin."
A grandparent, grandchild, cousin, etc., is to be described as "lawful" and "one of the next-of-kin" or "only next-of-kin."

If an intestate leave a brother or sister who is cleared off, and a nephew or niece apply for a grant, he or she should be described not as "next-of-kin," but as "the natural and lawful child of *A.B.* (the natural and lawful brother (*or* sister) of the intestate who died in his lifetime) and as such one of the persons entitled in distribution to his personal estate."

FORM 1.

Rule 4.

APPLICATION FOR PROBATE, ADMINISTRATION OR GUARDIANSHIP.

In the District Court of the District of.....
In the matter of the estate of.....late of, deceased.

Or

In the matter of....., the infant children of....., late of..... deceased.

The application of.....of the..... of.....in the Province of Alberta (*here state the status of the applicant, e.g.,* "executor of the will," etc., *or* "lawful widow," *or* "natural and lawful son and one of the next-of-kin," *or as the case may be*) who prays for a grant of probate of the will (with codicils, if any) (*or* "for letters of administration of the property," *or* "of the personal estate and effects of the deceased," *or* "for letters of guardianship of the persons and estates of the above named infants") of the said deceased, particulars in regard to which appear in the annexed affidavits.

Dated at.....this.....day of..... 19.....

.....
(*Applicant, and P.O. Address*)
or.....
Solicitor for A.B., the applicant, and P.O. address of each.

FORM 2.

Rule 6.

[*The following or to the like effect must be sworn to on application for administration. It may be in one affidavit or in several.*]

In the District Court of the District of.....
In the estate of....., deceased.

I, (*name in full*), of.....in the Province of Alberta.....make oath and say:

1. That I am the person applying for administration of the property of.....late of..... in the..... deceased;

2. That the said deceased died on or about the..... day of.....A.D. 19....., at..... and that he had at the time of his death his fixed place of abode at..... (*If his fixed place of abode was outside Alberta, add:* "but had at such time property in the said District of....."), and that during the six years next preceding his death he resided at the following places: (*State places in order of date and residence and period of residence at each place*);

3. That the deceased at the time of his death was.....years of age, and (*a bachelor, widower, spinster or widow, or left a lawful husband or widow, him or her surviving, as the case may be*).....;

4. That I am (*describe the relationship of applicant to deceased according to table of kinship and show why nearer relative, if any, is not applying*);

5. That I am of the full age of twenty-one years;

6. That I have made or caused to be made diligent and careful search in all places where the deceased usually kept his papers and in his depositories in order to ascertain whether the deceased had or had not left any will, but have been unable to discover any will, codicil or testamentary paper, and I verily believe that he died without having left any will, codicil or testamentary paper whatsoever;

7. That the value of the.....property of the said deceased which he in any way died possessed of or entitled to and for and in respect of which letters of administration are to be granted is under..... dollars; that the value of the real property is under.....dollars; and that full particulars and a true appraisement of all said property are annexed hereto;

8. That I will faithfully administer the property of the deceased by paying his just debts and any taxes and duties payable in respect of the estate and by distributing the residue (if any) of his estate according to law, and that I will exhibit under oath a true and perfect inventory of the property of the deceased and render a just and true account of my administration whenever required by law so to do;

9. That I will surrender to this court the grant to be issued to me whenever so required by the court or a judge thereof;

10. That to the best of my knowledge, information and belief no other application for a grant of probate of the will of the deceased has been made.

Sworn at the.....
of.....in the
Province of Alberta, this.....
day of.....19.....

Before me,

.....
A Commissioner, etc.

FORM 3.

Rule 7.

ADMINISTRATION WITH WILL.

[*The following or to the like effect must be sworn to in support of an application for administration with the will annexed. It may be in one affidavit or in several.*]

In the District Court of the District of.....

In the estate of.....
deceased.

I, *A.B.*, of the.....of.....
in the.....make oath and say:

1. That I believe the paper writing (*or* these paper writings) hereto annexed now marked by me with my signature to contain the true and original last will and testament (and codicil or codicils thereto) of (*name in full*) late of the.....of.....in the District of in the Province of Alberta (*occupation or quality of deceased*) and am applying for administration of the estate of the said.....with the will;

2. That the said deceased died on or about the..... day of.....A.D. 19....., at..... that the deceased had at the time of his death a fixed place of abode at in the Province of Alberta, (*or if the abode was outside Alberta, insert here:* "but had at such time property in the said District of.....in the Province of Alberta");

3. That the said deceased was at the time of the execution of the said will (and codicil or codicils thereto) of.....years of age, and did not subsequently intermarry with any person;

4. [*Account for the custody of the will or codicil from its execution to the time of the application.*]

5. That I am a (*here give status of applicant according to table of kinship and show how nearer relatives are cleared off*)..... of the deceased and that (*give name of executor and proceed thus:* "in the said will named is dead without having taken out probate thereof," *or* "has renounced all right and title to the probate and execution of the said will," etc., *or* "The deceased did not in his will name any executor," *or as the fact is*);

6. That I am of the full age of twenty-one years;

7. That the fair market value of the whole property of the said deceased, which he in any way died possessed of or entitled to, and for and in respect to which, "letters of administration with the will are." to be granted, is under.....dollars;

That the value of the personal estate and effects is under..... dollars, and of the real estate is under.....dollars, and that full particulars and a true appraisement of all said property are exhibited herewith;

8. That I will administer the property of the said deceased according to the tenor of his will (*or* will and codicils) by paying his just debts, any taxes and duties payable in respect of the estate, and the legacies contained in his will (*or* will and codicils) so far as the same shall thereto extend and the law bind me, and distribute the residue (if any) of the estate according to law, and that I will exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and render a just and true account of my administration whenever required by law so to do;

9. That I will surrender to this court the grant to be issued to me, whenever so required by the court or a judge thereof;

10. That to the best of my knowledge, information and belief no other application has been made for letters of administration of the estate of the deceased or for a grant of probate of any will of his.

AFFIDAVIT OF EXECUTION OF WILL BY SUBSCRIBING WITNESS.

I, (*A.B.*) of.....in the..... of.....make oath and say:

1. That on or about the.....day of..... in the year of our Lord one thousand nine hundred and..... I was personally present and did see the paper writing hereto annexed, now marked by me with my signature, signed by the said..... as the same now appears as and for his (*or* her), last will and testament, and that the same was so signed by the said.....in the presence of me and of.....of..... in the....., the other subscribing witness we being both present at the same time; whereupon the said..... and I did at the request of the said....., and in his presence and in the presence of each other attest and subscribe the said will (*or* codicil), and I verily believe that the testator at the time of the execution of the said will was of sound and perfect mind, memory and understanding.

Note.—If there are erasures or interlineations in the will a clause should be added specifying same and showing that they existed at the time of the execution and in such cases the matter as to plight should be included in this affidavit, and if the testator signed by making his mark, or if another signed for him by his direction, it must be shown that the will was read over to him before execution and that he appeared to fully understand its contents.

2. That the paper writing hereunto annexed and marked by me with my signature, bearing date the.....day of..... A.D. 19..., beginning thus.....; ending thus..... and being subscribed thus,.....purporting to be (*or* a codicil to) the last will of the said....., deceased, has been viewed and perused by me and I have particularly observed that (*here recite the various alterations, erasures and interlineations, if any, and the general plight and condition of the will, or any other matter requiring to be accounted for*), and I say that the said will (*or* codicil) is now in all respects in the same state, plight and condition as when it was signed by the said deceased and the said witnesses (*or as the case may be*).

Note.—Paragraph 2 is generally required only in cases where erasures or irregularities appear on the face of the will or codicil or where the date of execution has been omitted, in which case the date is to be deposed to.

Sworn at the.....

of.....in the.....

Province of Alberta, this.....

day of.....19.....

Before me,

.....

A Commissioner, etc.

FORM 4.

Rule 8.

AS TO PROBATE.

[*The following or to the like effect must be sworn to in support of an application for probate. It may be in one affidavit or in several.*]

In the District Court of the District of.....
In the estate of.....
deceased.

I (*or* we), (*names in full*) of the.....of....., in the.....(*occupation*) make oath and say:

1. That *A.B.*, late of.....in the Province of(*occupation*) died on or about the..... day of.....A.D. 19.... at.....and at the time of his death had his fixed place of abode at.....in the District of..... (*or as the case may be. If his fixed abode was outside Alberta, add:* "but had, at such time property in the said District of....., in the Province of Alberta") and resided during the six years immediately preceding his death at the following places: (*here state places of residence in order of date and period of residence at each.*)

2. That the deceased at the time he made his will was..... years of age, and that subsequent to the execution of his will the said deceased did not intermarry with any person;

3. That the fair market value of the whole property of the said deceased, which he in any way died possessed of or entitled to, and for and in respect to which probate of the said will (and codicils, *if any*) is to be granted, is under.....dollars;

4. That the value of the personal estate and effects is under..... dollars, and of the real estate is under.....dollars, and that full particulars and a true appraisement of all said property are exhibited herewith;

5. That I (*or* we) believe the paper writing (*or* the paper writings) hereto annexed and now marked by [me *or* us] with [by *or* our] signatures to contain the true and original last will and testament, (and codicil, *or* codicils) of late of the..... of....., in the District of....., and has been in the custody of the following persons since the time of its execution. (*Name the parties and state that the document is in the same condition as when executed*);

6. That I am (*or* each of us is) of the full age of twenty-one years;

7. That I am (*or* we are) the.....executor (*or* the executors, *or* one of the executors, therein named, *or* executor according to the tenor thereof, executor during life, executrix during widowhood, *or as the case may be, and state relationship if stated in the will or codicil*), therein named and that I,....., will faithfully administer the property of the said testator by paying his just debts, all taxes and duties payable in respect of the estate, and the legacies contained in his will (*or* will and codicils), so far as the same will thereunto extend and the law bind and distribute the residue, if any, of the estate according to law; and that I.....will exhibit under oath a true and perfect inventory of all and singular the property of the testator, and render a just and full account of.....executorship whenever required by law so to do;

8. That I will surrender to this court the grant to be issued to me whenever so required by the court or a judge thereof;

9. That to the best of my knowledge, information and belief no other application has been made for a grant of probate of the will of the deceased.

Sworn at the.....
of.....
in the Province of
this day of.....A.D. 19.....

Before me,

.....
A Commissioner, etc.

FORM 5.

Rule 9.

[*The following or to like effect must be sworn to in support of an application to be appointed guardian.*]

In the District Court of the District of.....

In the matter of the guardianship of the infant child (*or* children) of *C.F.* (*full names of deceased*), deceased.

I, (*name in full*), of the.....of.....in the....., make oath and say:

1. That *A.B.*, late of the.....of.....in the Province of Alberta, died on or about the.....day of....., 19....., at.....and had at the time of his death his fixed place of abode at the.....of.....in the District of.....(*or as the case may be. If the deceased died outside Alberta state whether he had property in Alberta*);

2. That the said deceased died a widower (*or as the case may be*), leaving surviving him.....his natural and lawful children who reside at the.....of.....

That the said *C.D.* is an infant of.....years of age and the said *E.F.* is an infant of.....years of age;

3. That the required notice of intention to be appointed guardian has been given (*or as the case may be*); that I am of the full age of twenty-one years and am the paternal uncle (*or as the case may be*), of the said infants.

Note.—If there is a nearer relative than the applicant the reason why he does not apply should be deposed to.

4. That the said deceased died intestate (*or as the case may be*), and without having appointed a guardian of the said infants;

5. That the value of the property of the said deceased, which he is any way died possessed of or entitled to, and to which the said infants are entitled is about.....dollars and under.....dollars; that the value of the personal estate to which the said infants are entitled is about.....dollars and under.....dollars, and that the annual value of the real estate is about.....dollars, and under.....dollars, and that full particulars of both said personal and real estate and an appraisement thereof are exhibited herewith, and that such particulars and appraisement are true;

6. That I will, if I am appointed such guardian, faithfully perform the duties of guardianship, and that I will, when my said ward becomes of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner, if thereto required by the said District Court, or by a judge thereof, render to my said ward or to his executors or administrators a true and just account of all goods, moneys, interest, rents, profits, property or other estate of my said ward—which shall have come or which might but for my default have come into my hands or possession or under my control, and will thereupon without delay transfer, deliver and pay over to my said ward,—or to his executors or administrators the estate or the sum or balance of money which may or which should but for my default be in my hands or possession or under my control, belonging to my ward, deducting therefrom and retaining such reasonable sum for my expenses and charges as shall upon an audit of my accounts be allowed by the court or a judge;

7. That I will surrender to this court the grant to be issued to me whenever so required by the court or a judge thereof;

8. That to the best of my knowledge, information and belief no other application for a grant of letters of guardianship of the estate or person of the said infant (*as the case may be*) has been made.

Sworn at the.....
of.....in the
Province of Alberta, the.....
day of.....19.....

Before me,

.....

(*Person authorized to administer oaths*).
A Commissioner, etc.

FORM 6.

Rules 6, 7, 8 *and* 9.

Note.—The matter in this form may be embodied in the Oath of Executor or Administrator, Forms 6, 7, *and* 8.

INVENTORY AND VALUATION.

In the District Court of the District of.....
In the estate of.....deceased.
Inventory and valuation of the real and personal estate and effects of the said deceased,.....

General description of property.	*Valuation or amounts.*
Household goods and furniture.....	
Farming implements, etc.....	
.....	
Stock in trade.....	
Horses.....	
Horned cattle.....	
Sheep and swine.....	
Book debts and promissory notes.....	
Money secured by life insurance.....	
Bank stock and other stock.....	
Securities for money.....	
Cash on hand.....	
Cash in bank.....	
Farm produce of all kinds.....	
Other property not before mentioned (if any).....	
.....	
Real estate.....	

I,....., of the.....
of....., in the Province of.....
make oath and say:

That I am applying for.....of the said deceased, and that above is to the best of my knowledge, information and belief a true inventory and valuation of the real and personal estate and effects of the said deceased at the time of.....death so far as I can at present ascertain.

Sworn at the.....
of.....in the
Province of Alberta, this.....
day of.....19.....

Before me,

.....
A Commissioner, etc.

FORM 7.

Rule 9.

ELECTION BY MINORS OF A GUARDIAN.

In the District Court of the District of.....
In the matter of the guardianship, etc.
Whereas,.....late of the.....
of.....in the District of.....,
deceased, died on or about the.....day of.....
19....., at....., in, etc., intestate, a widower (*or* widow, *as the case may be*) leaving *C.D.*, *E.F.* and *G.H.*, his natural and lawful children, and only next-of-kin, the said *C.D.* being a minor of the age of twenty years only, and the said *E.F.* being also a minor of the age of nineteen years only, and the said *G.H.* being an infant of the age of six years only (*or as the case may be*).

Now we, the said *C.D.* and *E.F.* do hereby make a choice of and elect(our lawful maternal uncle, *or as the case may be*) to be our guardian, for the purpose of his obtaining letters of administration

of the property of the said....., deceased, to be granted to him until one of us obtain the age of twenty-one years (*or* for the purpose of renouncing for us, and on our behalf, all right, title and interest to and in letters of administration, etc., *as the case may be*).

In witness whereof we have hereunto set our hands and seals this..... day of.....A.D. 19.....

.....(L.S.)
.....(L.S.)
.....(L.S.)

Signed, sealed and delivered
in the presence of

.....

Note.—An affidavit of execution required.

FORM 8.

Rule 14.

BOND FOR ADMINISTRATION (WITHOUT WILL).

Know all men by these presents that we, *A.B.*, of the..... of....., in the Province of Alberta; *C.D.* of the, etc., and *E.F.*, of the, etc., are jointly and severally bound unto *G.H.*, the judge of the District Court of the District of....., in the Province of Alberta aforesaid, in the sum of.....dollars, to be paid to the said *G.H.*, or the judge of the said court for the time being, for which payment well and truly to be made we bind ourselves, and each of us for the whole, our and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals.

Dated the.....day of....., in the year of our Lord, 19.....

The condition of this obligation is such that if the above named *A.B.*, the intended administrator of all the property (*or as the case may be*), of..... late of the.....of..... in the.....of....., deceased (who died on or about the.....day of....., 19.....) do, when lawfully called on in that behalf, make or cause to be made a true and perfect inventory of all the property of the said deceased, which has or shall come into the hands, possession or knowledge of the said *A.B.*, or into the hands and possession of any other person or persons for him, and the same so made, do exhibit or cause to be exhibited into the registry of the District Court of the District of..... whenever required by law so to do, and the same property and all other property of the said deceased at the time of his death, which at any time after shall come into the hands or possession of the said *A.B.*, or into the hands or possession of any other person or persons for him, do well and truly administer according to law, that is to say: do pay the debts which the said deceased did owe at his decease, and all taxes and duties which may be payable in respect of his estate, and further, do make or cause to be made, a true and just account of his said administration whenever required by law so to do, and all the rest and residue of the said property to deliver and pay unto such person or persons respectively as shall be entitled thereto under the provisions of any law now in force, or that may hereafter be in force in Alberta; and if it shall hereafter appear that any last will or testament was made by the deceased, and the executor or executors therein named do exhibit the same unto the said court, making request to have it allowed and approved accordingly, if the said *A.B.* being thereunto required do render and deliver the said letters of administration (approbation of such testament being first had and made) in the said court; then this obligation to be void and of no effect, or else to remain in full force and virtue.

.....(L.S.)
.....(L.S.)
.....(L.S.)

Signed, sealed and delivered by the above named *A.B.*, *C.D.* and *E.F.*, in the presence of

FORM 9.

Rule 14.

BOND FOR ADMINISTRATORS WITH WILL ANNEXED.

Know all men by these presents that we, *A.B.*, of the..... of....., in the Province of..... *C.D.*, of the, etc., and *E.F.*, of the, etc., are jointly and severally bound unto *G.H.*, the judge of the District Court of the District of....., in the Province of Alberta, aforesaid, in the sum of.....dollars, to be paid to the said *G.H.*, or the judge of the said court for the time being, for which payment well and truly to be made we bind ourselves and each of us for the whole, our and each of our heirs, executors and administrators, firmly by these presents. Sealed with our seals.

Dated the.....day of..... in the year of our Lord, 19.....

The condition of this obligation is such that if the above named *A.B.*, who has applied to be appointed the administrator, with the will of the property (*or as the case may be*) of....., late of the..... of..... in the....., deceased, who died on or about the.....day of..... A.D. 19....., do when lawfully called on in that behalf, make or cause to be made a true and perfect inventory of all and singular the property which has or shall come into the hands, possession or knowledge of the said *A.B.*, or into the hands and possession of any other person or persons for him, and the same so made, do exhibit or cause to be exhibited into the registry of the District Court of the District of....., whenever required by law so to do, and the same property, and all other the property of the said deceased at the time of his death, which at any time after shall come into the hands or possession of the said *A.B.*, or into the hands or possession of any other person or persons for him, do well and truly administer according to law, that is to say: do pay the debts which the said deceased did owe at his decease, and all taxes and duties which may be payable in respect of his estate, and then the legacies contained in the said will annexed to the said letters of administration to the said *A.B.* committed, so far as such property will thereunto extend and the law bind him; and further do make or cause to be made a full, true and just account of his said administration, whenever required by law so to do, and all the rest and residue of the property, shall deliver and pay unto such person or persons as shall be by law entitled thereto then this obligation to be void and of no effect, or else to remain in full force and virtue.

Signed, sealed and delivered by the above named *A.B.*, *C.D.* and *E.F.*, in the presence of

.....(L.S.)
.....(L.S.)
.....(L.S.)

FORM 10.

Rule 14.

BOND TO BE GIVEN BY GUARDIANS.

Know all men by these presents that we, *A.B.*, of the..... of....., in the Province of Alberta,..... *K.L.*, of the.....of....., in the said province,.....and *M.N.*, of the..... of.....in the said province,.....are held and firmly bound unto *G.H.*, the judge of the District of..... or the judge for the time being of the said court, in the sum of....., dollars, to be paid to the said *G.H.*, or the judge of the court for the time being, for which payment to be well and truly made we do bind ourselves and each and every of us, our and every of our executors and administrators firmly by these presents. Sealed with our seals.

Dated the.....day of....., in the year of our Lord, 19.....

Whereas, the said *A.B.*, having applied to be appointed guardian of the persons and estate of the infants (*names in full of infant or infants*) and hereinafter called the said wards, by the District Court of the District of....., according to the Rules in that behalf, is required to give security for the performance of the said trust.

Now the condition of this obligation is such that if the above bounden *A.B.* shall faithfully perform the said trust and that he or his executors or administrators will, when the said wards respectively become of the full age of twenty-one years, or whenever the said guardianship shall be or is determined, or sooner, if thereunto required by the said District Court, render to each of the said wards or to their respective executors or administrators a true and just account of all goods, moneys, interests, rents, profits, property or other estate of such wards which shall have come or which might but for his default have come into the hands or possession or under the control of the said *A.B.*, and will thereupon exhibit under oath and render into the said court for audit and allowance, a just and full account of his guardianship, and will thereupon without delay, deliver and pay over to each and every of the said wards or to his or their executors or administrators, the estate or the sum or balance of money which may be or should but for his default be in the hands or possession or under the control of him the said *A B.*, belonging to the said ward or wards, deducting therefrom and retaining such reasonable sum for the expenses and charges of him the said *A.B.*, as such guardian as by the said court or by the judge thereof shall have been allowed, then this obligation to be void, or else to remain in full force and virtue.

Signed, sealed and delivered by the above named *A.B.*, *K.L.* and *M.N.*, in the presence of

A.B......(L.S.)
K.L......(L.S.)
M.N.....(L.S.)

FORM 11.

Rule 14.

AFFIDAVIT OF JUSTIFICATION BY SURETIES.

In the District Court of the District of.....
In the estate of....., deceased.

We, *C.D.*, of the.....of.....in the Province of Alberta, yeoman, and *E.F.*, of the..... of....., in the Province of Alberta, esquire, severally make oath and say that we are the proposed sureties on behalf of the intended administrator of the property (*or as the case may be*) of..... deceased, in the within bond named, for the faithful administration of the said property (*or as the case may be*) of the said deceased; and I, the said *C.D.*, for myself make oath and say that I reside at the..... of....., in the Province of Alberta, and own property within the said province to the value of.....dollars over and above all encumbrances thereon, and exemptions from seizure allowed by law and over and above a sum sufficient to pay my just debts and every other sum for which I am now bail, or for which I am liable as surety or endorser or otherwise, and am of the full age of twenty-one years; and I, the said *E.F.*, for myself make oath and say that I reside at the..... of....., in the said province, and own property within the said province to the value of..... dollars over and above all encumbrances and exemptions from seizure allowed by law and over and above a sum sufficient to pay my just debts and every other sum for which I am now bail or for which I am liable as surety or endorser or otherwise, and am of the full age of twenty-one years.

The above named deponents, *C.D.* and *E.F.*, were severally sworn the..... day of..... A.D. 19....., at the..... of....., in the Province of Alberta.

Before me,

.....
A Commissioner, etc.

Note.—This form may be changed to suit a guardianship bond.

FORM 12.

Rule 14.

AFFIDAVIT OF EXECUTION.

In the District Court of the District of.....

Canada
Province of Alberta.

In the estate of.....deceased.

I,....., of.....,
in the Province of....., make oath and say as follows:

1. I was personally present and did see.....
named in the.....instrument who is personally known to me to be the person named therein duly sign and execute the same for the purposes named therein.

2. The same was executed at the.....in the and I am the subscribing witness to the execution thereof by the said..... I personally know the said.....and (he *or* each of them) in my belief is of the full age of twenty-one years.

Sworn at.....in the Province of..... this..... day of..... 19.....

Before me,

.....
Commissioner, etc.

Note.—In the affidavit verifying the signatures of infants, e.g., the election of guardians, the age of each infant should be deposed to, stating the date of birth.

FORM 13.

Rule 18.

CAVEAT.

In the District Court of the District of.....

Let nothing be done in the estate of *A.B.*, late of..... in the Province of Alberta (merchant), deceased, unknown to *C.D.*, of the of.....in the said province (grocer), (*or* unknown to *H.T.*, of the.....of in the said province, the solicitor of *C.D.*, of the of.....in the said province).

The said *C.D.*, is the natural and lawful son of the said deceased (*or as the case may be*).

The grounds on which this caveat is entered are (*state fully*).

Dated at the.....of.....in the Province of Alberta, this.....day of..... A.D. 19.....

.....*C.D.*, of.....(P.O. Address).
or H.T., solicitor for *C.D.*, Esq.....(P.O. Address).

Note.—Rule 18 *requires that a caveat be accompanied by an affidavit of statutory declaration.*

FORM 14.

LETTERS OF ADMINISTRATION.

Canada
Province of Alberta.

In the District Court of the District of.....

Be it known, that on the.....day of..... A.D. 19....., letters of administration of all and singular the property (*or as the case may be if grant is limited*) of.....late of the.....of....., in the District of.....who died on or about the..... day of....., 19....., at.....intestate and had at the time of his death a fixed place of abode at the..... of....., in the Province of Alberta (*or as the case may be*), (*if out of Alberta, add:* "but had at such time property in the District of....."), were granted by the District Court of the District of.....to..... of.....in the Province of Alberta, the lawful widow (*or as the case may be*) of the said intestate, she having been first sworn faithfully to administer the same by paying his just debts and all taxes and duties payable in respect of his estate and by distributing the residue (if any) of his property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property, and to render a just and true account of his administration and to surrender these letters of administration whenever required by law so to do.

.....

(SEAL) *Clerk of the Court.*

FORM 15.

LETTERS OF ADMINISTRATION WITH WILL ANNEXED.

Canada
Province of Alberta.

In the District Court of the District of.....

Be it known that....., late of the..... of....., in the Province of Alberta..... deceased, who died on or about the.....day of....., 19....., at....., and who at the time of his death had a fixed place of abode at the.....of..... in the said District of.....(*or* "had no fixed place of abode in Alberta, but had at such time property in the said District of"), made and duly executed his last will and testament (with.....codicils), and did therein name of the.....of....., in, etc.....executor thereof (*or* named no executor therein), a true copy of which said last will and testament is hereunder written (*or* true copies of which said last will and testament, and..... codicils are hereunder written), and be it further known that on the..... day of.....A.D. 19....., letters of administration, with the said will (and.....codicils) annexed of all and singular the property (*or as the case may be, if grant is limited*) of the said deceased were granted by the District Court of the District of..... to.....of the..... of.....in the District of..... (*insert the character in which the grant is taken, and if executor has renounced, state the fact*) he the said.....having previously been sworn well and faithfully to administer the same according to the tenor of the said will, by paying the just debts of the deceased, all taxes and duties payable in respect of his estate and the legacies contained in his will (*or* will and codicil) so far as the same shall thereunto extend and the law bind him, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the property of the said deceased and to render a true and just account of his administration and to surrender these letters of administration whenever required by law so to do.

.....

(SEAL) *Clerk of the Court.*

FORM 16.

PROBATE.

Canada
Province of Alberta.

In the District Court of the District of.....

Be it known that on the.....day of.....A.D. 19..., the last will and testament [*or* the last will and testament with (*state number*) codicils] of.....late of the..... of.....in the..... who died on or about the.....day of..... A.D. 19....., at....., and who at the time of his death had a fixed place of abode at.....in the said District of.....(*or as the case may be. If out of Alberta, add:* "but had at such time property in the said District of.....") was proved and registered in the said District Court, a true copy of which said last will and testament (with codicils, *if the case is so*) is hereunder written, and that the administration of all and singular the property of the said deceased, and any way concerning his will was granted by the aforesaid court to.....of the..... of....., in the..... the sole executor (*or as the case may be*) named in the said will (*or* codicil), he having been first sworn well and faithfully to administer the same by paying the just debts of the deceased, all taxes and duties payable in respect of his estate and the legacies contained in his will (*or* will and codicils) so far as he is thereunto bound by law, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property, and to render a just and true account of his (*or* their) executorship and to surrender this grant whenever required by law so to do.

.....

(SEAL) *Clerk of the Court.*

FORM 17.

DOUBLE PROBATE.

Canada
Province of Alberta.

In the District Court of the District of.....

Whereas on the.....day of..... A.D. 19....., the last will and testament (*or* the last will and testament and.....codicils) of....., late of the of.....in the Province of Alberta, who died on or about the.....day of..... A.D. 19....., at.....and who at the time of his death had a fixed place of abode at....., in the Province of Alberta (*or as the case may be. If out of Alberta, add:* "but had at such time property in the said District of.....") was proved and registered in the said District Court, a true copy of which said last will and testament is hereunto annexed (*or* true copies of which said last will and testament and codicils are hereunto annexed), and that the administration of all and singular the property of the said deceased, and any way concerning his will, was granted by the aforesaid court to, of....., in the Province of Alberta,....., one of the executors named in the said will (*or* codicil). Power being reserved of making the like grant to....., of the..... of.....in the Province of Alberta, the other executor named in the said will when he should apply for the same. Be it therefore known that on the.....day of....., A.D. 19....., the said will of the said deceased was also proved, and that the like administration of all and singular the property of the said deceased, and any way concerning his will, was granted to the said..... he having been first duly sworn well and faithfully to administer the same by paying the just debts of the deceased, all taxes and duties payable in respect of his estate and the legacies contained in his will, (*or* will and codicil) so far as he is thereunto bound by law, and by distributing the residue (if any) of the property according to law, and to exhibit under oath a true and perfect inventory of all and singular the said property and to render a just and true account of his executorship and to surrender this grant whenever required by law so to do.

.....

(SEAL) *Clerk of the Court.*

FORM 18.

LETTERS OF GUARDIANSHIP.

Canada
Province of Alberta.

In the District Court of the District of.....

Whereas *A.B.*, of, etc., by application to the said court, did set forth that *C.F.*, late of, etc., (*recite as in application*), and whereas the said..... has applied that he might be appointed guardian of the persons and estates of the said infants, pursuant to the Rules in that behalf, and that letters of guardianship might be granted to him by the said court.

Be it known that on the day of..... A.D. 19....., the said *A.B.* was appointed guardian of the persons and estate of them the said *E.F.* and *G.F.* and these letters of guardianship are accordingly granted by the said court to the said *A.B.*, with power and authority to him to do all such acts, matters and things as a guardian may or ought to do, under and by virtue of any law in force in Alberta, relating to minors and their property, he the said *A.B.* having been first bound as required by law to perform the said trust and having been duly sworn to faithfully perform the trust of guardianship and that he will when his wards respectively become of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner if thereto required by the said District Court or by a judge thereof, render to his wards, or to their executors or administrators a true and just account of all goods, moneys, interest, rents, profits, property, or other estate of the said wards which shall have come or which might but for his default have come into his hands or possession or under his control, and will thereupon without delay deliver and pay over to his said wards or to their executors or administrators the estate or the sum or balance of money which may be in his possession or under his control belonging to his wards, deducting therefrom and retaining such reasonable sum for his expenses and charges as shall upon an audit of his accounts be allowed by the court or a judge, and will surrender these letters of guardianship to the court whenever so required by the court or a judge thereof.

.....

(SEAL) *Clerk of the Court.*

FORM 19.

EXEMPLIFICATION OF LETTERS OF ADMINISTRATION.

Canada
Province of Alberta.

In the District Court of the District of.....

Be it known that upon search being this day made in the District Court of the District of.....it plainly appears that on the.....day of.....A.D. 19....., letters of administration of all and singular the property of..... who died at.....on or about the of....., 19....., and had at the time of his death a fixed place of abode at..... in the said District of.....were granted to of the.....of..... in the said Province of Alberta, and which said letters of administration now remain on record in the said District Court. The true tenor of the said letters of administration is in the words following, to wit: (*Here the letters of administration are to be recited verbatim*).

In faith whereof these letters testimonial are issued.

Given at the.....of..... in the Province of Alberta, this.....day of, etc.

.....

(SEAL) *Clerk of the Court.*

FORM 20.

Rule 6.

RENUNCIATION OF ADMINISTRATION (WITHOUT WILL).

In the District Court of the District of.....
Whereas *A.B.*, late of the.....of.....
in the District of.....deceased, died on or about the.....day of....., 19....., intestate (a widower) and had at the time of his death a fixed place of abode at the.....of....., in the said District of.....and whereas I, *C.D.*, of the.....of.....in the Province of Alberta....., am his (*state relationship according to table of kinship*).

Now I, the said *C.D.*, do hereby expressly renounce all my right and title to letters of administration of the property of the said deceased.

In witness whereof I have hereunto set my hand and seal this..... day of....., 19.....

Signed, sealed and delivered by the above named..... in the presence of

.....
C.D. (L.S.)

N.B.—An affidavit of execution required.

FORM 21.

Rules 7 *and* 8.

EXEMPLIFICATION OF PROBATE OR LETTERS OF ADMINISTRATION WITH WILL ANNEXED.

In the District Court of the District of.....
Whereas....., late of.....
in the District of.....deceased, died on or about the.....day.....19....., in the said District of.....and whereas he made and duly executed his will, bearing date the.....day of..... 19....., (*or* will with.....codicils, the said will bearing date and the said codicils bearing date, etc.), and thereof appointed me executor (*or as the case may be*) as I am informed and believe.

Now I,....., do hereby declare that I have not intermeddled in the estate of the said....., deceased, and will not hereafter intermeddle therein, and I do hereby expressly renounce all my right and title to the probate and execution of the said will (and codicils *if any*) of the said deceased.

In witness whereof I have hereunto set my hand and seal this..... day of.....19.....

Signed, sealed and delivered by the above named..... in the presence of

.....(L.S.)

Note.—The above form may be varied when the renunciation is by the widow or other person entitled to administration with the will annexed. In each case there must be an affidavit of execution proving inter alia the age of the person executing the renunciation.

An executor who has intermeddled in an estate will not be allowed to renounce.

FORM 22.

RENUNCIATION OF PROBATE OR OF ADMINISTRATION WITH THE WILL ANNEXED.

Canada
Province of Alberta.
In the District Court of the District of.....
Be it known that upon search being this day made in the District Court of the District of....., it plainly appears that on

the.....day of.....19.....,
the last will and testament (with.....codicils) of.....,
late of the.....of....., in the District
of....., in the Province of Alberta,.....,
deceased, who died at.....on or about the.....
day of....., 19....., and had at the time of his
death a fixed place of abode at the.....of.....,
in the Province of Alberta (*or as the case may be*) was proved by.....
of the.....of.....in the Province of
Alberta,....., the executor therein named, or that on
the.....day of....., 19.....,
letters of administration with the last will and testament (and.....
codicils) annexed, of the property of....., late
of....., were granted to.....
of the.....of.....in the Province of
Alberta....., and which said probate (*or* letters
of administration) now remains of record in the said District Court.

The true tenor of the said probate (*or* letters of administration with the will annexed) is in the words following, to wit: (*here let grant be recited verbatim*)

.....
.....
.....

In faith whereof these letters testimonial are issued.

Given at the.....of.....
in the Province of Alberta, this.....day of.....,
19.....

.....
(SEAL) *Clerk of the Court.*

FORM 23.

Rule 13.

ADVERTISEMENT—NOTICE OF APPLICATION FOR LETTERS OF GUARDIANSHIP.

This advertisement is not to exceed 4 inches single column.

NOTICE.

In the District Court of the District of.....

In the matter of the guardianship of....., the
infant child of.....late of the.....
of.....Alberta,.....deceased.

Notice is hereby given that an application will be made to the above court
at.....on.....the.....
day of....., 19....., at 10 o'clock a.m., or so soon
thereafter as the application can be heard for the grant of letters of guardian-
ship of the above named infant to.....of the.....
of.....the maternal uncle (*or as the case may be*) of
the said infant.

Dated at.....
this.....
of.....19....

.....
The applicant, or
Solicitors for the applicant.

FORM 24.

ADVERTISEMENT—NOTICE TO CREDITORS AND CLAIMANTS.

This advertisement is not to exceed 4 inches single column in any newspaper.

NOTICE.

In the estate of.....late of.....
(*occupation*),.....deceased.

Notice is hereby given that all persons having claims upon the estate of the above named.....who died on the..... day of.....A.D....., are required to file with by the..... day of.....a full statement duly verified of their claims and of any securities held by them, and that after that date the executors will distribute the assets of the deceased among the parties entitled thereto having regard only to the claims of which notice has been so filed or which have been brought to their knowledge.

Dated this.....day of....., 19.....

.....
Solicitor for the executors, or the executors, etc.
Address.....

FORM 25.

Rule 61.

AFFIDAVIT OF AGENT AS TO PLIGHT AND CONDITION (DEPOSIT OF LIVING PERSON'S WILL).

In the District Court of the District of.....

I, *A.B.*, of....., solicitor, make oath and say as follows:

That the sealed packet that I produce for the purpose of the same being deposited for safe custody in the office of the clerk of the District Court of the District of.....and on the back of which I have signed my name, is now precisely in the same plight and condition as when received by me from the hands of *C.D.*, of.....

Sworn at.....in the Province of..... day of..... 19.....

Before me,

(Signed).....*A.B.*

FORM 26.

Rule 61.

AFFIDAVIT OF AGENT AS TO HANDWRITING (DEPOSIT OF LIVING PERSON'S WILL).

In the District Court of the District of.....

I, *A.B.*, of....., solicitor, make oath and say as follows:

1. That the signature.....at the foot of the endorsement on the packet containing the last will of *C.D.* and witnessed by me is in the proper handwriting of the said *C.D.* and was by him signed in my presence on the.....day of.....19....

2. That the signature thereto is in the proper handwriting of me, this deponent.

Sworn at.....in the Province of..... day of..... 19.....

Before me,

(Signed).....*A.B.*

FORM 27.

Rule 61.

MINUTE OF RECEIPT OF LIVING PERSON'S WILL (DEPOSITED BY TESTATOR).

In the District Court of the District of.....
Personally appeared *A.B.*, of....., who produced a sealed packet which he declared to contain his last will and testament..... with an endorsement thereon in the words and figures following, to wit:—
"The.....day of....., 19.....
"This sealed packet contains the last will and testament of *A.B.*, of....., bearing date the.....day of, 19....., and the same was brought into the office of the clerk of the court of the District of....., by me for safe custody, there to remain deposited until after my decease, unless previously withdrawn by me in person," and subscribed in his own handwriting as he then acknowledged. And he then declared that he deposited the said sealed packet in the office of the clerk of this court for safe custody, whereupon the said packet was received and deposited in the office of the clerk of this court accordingly.
Dated the.....day of....., 19.....
(Sgd.).....*W.F.*
Clerk of the Court.

FORM 28.

Rule 61.

MINUTE ON RECEIPT OF LIVING PERSON'S WILL (DEPOSITED BY AGENT).

In the District Court of the District of.....
Personally appeared *A.B.*, of....., solicitor, who produced a sealed packet which he declared to contain the last will and testament of *C.D.*, of....., with an endorsement thereon in the words and figures following, to wit:—
"The.....day of....., 19.....
"This sealed packet contains the last will and testament (with..... codicils) of me, *C.D.*, of....., bearing date the day of, 19....., and I authorize *A.B.* of....., solicitor, to deposit the same for safe custody in the office of the clerk of the court of the District of....., there to remain deposited until after my decease, unless previously withdrawn by me in person," and subscribed in his own handwriting as he then acknowledged.
And he then declared that he deposited the said sealed packet in the office of the clerk of this court for safe custody, whereupon the said packet was received and deposited in the office of the clerk of this court accordingly.
Dated the.....day of....., 19....
(Sgd.).....*W.F.*
Clerk of the Court.

FORM 29.

MINUTE ON OPENING WILL DEPOSITED DURING TESTATOR'S LIFETIME.

In the District Court of the District of.....
In the estate of *A.B.*, deceased.
Appeared before the undersigned clerk of the court of the District of*X.Y.*, of....., who alleged that *A.B.*, late of died on.....the..... day of....., 19....., and further alleged that he was the executor named in the will of *A.B.*, bearing date the..... day of....., 19....., which will had been deposited in the office of the clerk of the court of the District of..... by the deceased in his lifetime for safe custody. The undersigned clerk of

the court of the District of.....ordered that the envelope containing the said will be opened that the appearer might be sworn as the executor named therein.

Dated the.....day of....., 19.....

(Sgd.).....*W.F.*

Clerk of the court.

SCHEDULE 2.

Clerk's Tariff.

The following fees shall be paid clerks for services and duties performed by them in probate, administration and guardianship matters:

1. Receiving, examining and filing papers, entering, application for administration, guardianship or probate; attending judge with same; giving and receiving all notices; issuing grant or letters and recording—
 One per cent. of the value of the property devolving up to $1,000.
 An additional one-eighth of one per cent. of the value of the property devolving in excess of $1,000, up to and inclusive of $5,000.
 Where the property devolving is over $5,000 an additional sum of 50 cents per $1,000, or fraction thereof.

1*a*. On rejection of an application after the first, to be dispensed with in the discretion of the judge	$1.00
2. Search	.25
3. On every certificate not otherwise provided for	.50
4. Exemplification, 5 folios	1.00
4*a*. Comparing for certifying copies of any documents, 5 folios	1.00
Each additional folio or fraction thereof	.10
5. Receiving, entering and filing caveat	.50
6. For each notice of caveat	.25
7. On every order, other than the fiat or order for issue of letters or grant	.50
8. For copy or extract from any paper, document or record, per folio or fraction thereof	.10
9. For taxing costs and granting certificates in noncontentious business	.50

10. On every audit, where the total of the accounts to be audited is under $1,000, $1.00 per hour, but not more than $2.00 on any day.
11. On every audit where such total exceeds $1,000, but is under $10,000, $1.00 per hour, but not to exceed $5.00 on any day.
12. On every audit where such total exceeds $10,000 but is under $50,000, $1.50 per hour, but not to exceed $6.00 on any day.
13. On every audit where such total exceeds $50,000, $2.00 per hour, but not to exceed $10.00 on any day.
14. Ancillary letters—same as in case of original grant.

15. Depositing will of living persons and receipt for same	3.00
16. Drawing and entering minute of clerk	.50
17. Withdrawal of will and incidental services	1.00

18. For services not herein provided for specially, the same fee as is provided for similar services by the general tariff of clerk's fees, contained in the Consolidated Rules of the Supreme Court.

Solicitor's Tariff.

COMMON FORM, PROBATE, ADMINISTRATION, GUARDIANSHIP.

Preparing all papers to lead, and attending issue of grant including succession duty affidavits and bond if required, and advertising for creditors where estate valued at—

(*a*) Under $400	$ 6.00
(*b*) $400 and over and less than $2,000	10.00
(*c*) $2,000 and over and less than $3,000	15.00
(*d*) $3,000 and over and less than $5,000	20.00
(*e*) $5,000 and over and less than $15,000	25.00
(*f*) $15,000 and over and less than $25.000	30.00
(*g*) $25,000 and over and less than $50,000	40.00
(*h*) $50,000 and over and less than $100,000	50.00
(*i*) $100,000 and over	100.00

CHAPTER 22.

An Ordinance respecting Clerks and Deputy Clerks.

(C.O., c. 22.)

Chapter 18, 1906, substituted.

CHAPTER 23.

An Ordinance respecting Sheriffs and Deputy Sheriffs.

(C.O., c. 23.)

Chapter 11, 1909, substituted.

CHAPTER 24.

An Ordinance respecting Commissioners to Administer Oaths.

(C.O., c. 24.)

Chapter 11, 1913 (2nd Session) substituted.

CHAPTER 25.

An Ordinance respecting Notaries Public.

(C.O., c. 25.)

Chapter 16, 1906, substituted.

CHAPTER 26.

An Ordinance to abolish Priority among Execution Creditors.

(C.O., c. 26.)

Chapter 4, 1910 (2nd Session), substituted.

CHAPTER 27.

An Ordinance exempting Certain Property from Seizure and Sale under Execution.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Exemptions Ordinance.*" C.O., c. 27, s. 1. Short title

EXEMPTIONS.

2. The following real and personal property of an execution debtor and his family is hereby declared free from seizure by virtue of all writs of execution, namely: Exemptions from seizure

1. The necessary and ordinary clothing of himself and his family;

2. Furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars;

3. The necessary food for the family of the execution debtor during six months which may include grain and flour or vegetables and meat either prepared for use or on foot;

4. Three oxen, horses or mules or any three of them, six cows, six sheep, three pigs and fifty domestic fowls besides the animals the execution debtor may have chosen to keep for food purposes and food for the same for the months of November, December, January, February, March and April, or for such of these months or portions thereof as may follow the date of seizure, provided such seizure be made between the first day of August and the thirtieth day of April next ensuing;

5. The harness necessary for three animals, one wagon or two carts, one mower or cradle and scythe, one breaking plough, one cross plough, one set of harrows, one horse rake, one sewing machine, one reaper or binder, one set of sleighs and one seed drill;

6. The books of a professional man;

7. The tools and necessary implements to the extent of two hundred dollars used by the execution debtor in the practice of his trade or profession;

8. Seed grain sufficient to seed all his land under cultivation not exceeding eighty acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes;

9. The homestead, provided the same be not more than one hundred and sixty acres; in case it be more the surplus may be sold subject to any lien or encumbrance thereon;

10. The house and buildings occupied by the execution debtors and also the lot or lots on which the same are situate according to the registered plan of the same to the extent of fifteen hundred dollars. C.O., c. 27, s. 2.

GENERAL.

Debtor's choice

3. The execution debtor shall be entitled to a choice from the greater quantity of the same kind of articles which are hereby exempted from seizure. C.O., c. 27, s. 3.

Article forming consideration of judgment

4. Nothing in this Ordinance shall exempt from seizure any article except for the food, clothing and bedding of the execution debtor and his family, the price of which forms the subject matter of the judgment upon which the execution is issued. C.O., c. 27, s. 4.

Rights of family of deceased debtor

5. In case of the death of the execution debtor, his property exempt from seizure under execution shall be exempt from seizure under execution against his personal representative if the said property is in the use and enjoyment of the widow and children or widow or children of the deceased and is necessary for the maintenance and support of the said widow and children or any of them. C.O., c. 27, s. 5.

Absconding debtors

No exemption in case of alimony

6. The provisions of section 2 hereof shall not apply to any case where the debtor has absconded or is about to abscond from the Territories leaving no wife or family behind nor to an execution issued upon a judgment or order for the payment of alimony. C.O., c. 27, s. 6; 1901, c. 16, s. 1.

CHAPTER 28.

An Ordinance respecting Juries.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Persons qualified as jurors

1. Subject to the exemptions hereinafter mentioned all male British subjects over twenty-one and under sixty years of age shall be qualified to serve as jurors in cases tried by jury in the judicial district in which they reside. C.O., c. 28, s. 1.

Persons exempt

2. The following persons are exempt from serving as jurors:

(*a*) Ministers of religion;
(*b*) Members of the Legislative Assembly and officers thereof;
(*c*) Members of the North-West Mounted Police;
(*d*) Practising advocates;
(*e*) Medical practitioners;
(*f*) All salaried officials of the Dominion and North-West Governments;
(*g*) Licensed ferrymen and school teachers while so employed;
(*h*) All persons employed in the running of railway trains;
(*i*) Telegraph operators while so employed;
(*j*) Postmasters. C.O., c. 28, s. 2.

Service once in two years

3. No person shall be called upon to serve as a juror more than once in two years unless there shall not be a sufficient number of qualified persons to serve as jurors residing within the requisite distance of the place of trial as hereinafter mentioned. C.O., c. 28, s. 3.

Sheriff to furnish list of persons qualified

4. The sheriff of each judicial district whenever required so to do by a judge of the Supreme Court shall furnish the clerk of the said court in such judicial district with a revised list containing in appropriate columns the names, residences and occupations of all persons within the said district qualified to serve as jurors. C.O., c. 28, s. 4.

When trial by jury ordered clerk to produce list

5. Whenever an order has been made for the trial by jury of issues of fact in any civil cause the clerk shall make out from the last revised list of persons qualified to serve as jurors in his district a special list containing the names, residences and occupations of all such persons whose residences do not exceed twenty miles from the place fixed by the order for holding such trial and shall produce the same before the judge in chambers at such time as he may appoint:

When number insufficient clerk may increase

Provided always that whenever the number of qualified persons to serve as jurors within the distance aforesaid is less than twenty-four the names of any other qualified persons residing outside of such distance and nearest to the place of trial shall be added to the special list so as to bring the number up to twenty-four; but if the number of names on such list exceeds twenty-four the clerk in the presence of the judge shall draw from the said

list by ballot twenty-four names and the said list so increased or reduced to twenty-four names shall be a special list from which the panel to form the jury in the case is to be struck as hereinafter provided. C.O., c. 28, s. 5.

Striking panel Notice to parties

6. The judge shall thereupon appoint a day and an hour at his chambers for striking the panel, one day's notice whereof shall be given by the clerk to the parties interested. C.O., c. 28, s. 6.

Right of challenge

7. Each party to the suit attending the striking of the panel shall be entitled to four peremptory challenges by striking alternately, if both parties are present, from the special list the name of one of the persons therein designated to the requisite number of four each the clerk marking each name as the same is struck out and the clerk shall then strike off from the top and foot of said list alternately all unchallenged names except twelve which shall constitute the panel to be summoned. C.O., c. 28, s. 7.

Jury list in criminal matters

8. Whenever a jury is required for the trial of any person charged with a criminal offence the clerk on receiving notice from the judge of the fact shall prepare a special list and produce it before the judge in chambers as required in civil matters. C.O., c. 28, s. 8.

Panel

9. On the production of such special list the clerk in the presence of the judge shall strike off from such special list by ballot the names singly until the number be reduced to eighteen which number shall form the jury panel for the trial. C.O., c. 28, s. 9.

Precept to issue

10. As soon as the panel is formed in the manner hereinbefore prescribed the clerk shall issue out of court and deliver to the party applying for it in civil cases but to the sheriff in criminal cases a precept in form A in the schedule to this Ordinance directed to and commanding the sheriff to summon the persons whose names comprise the panel. C.O., c. 28, s. 10.

Summoning of jury

11. Upon receipt of the precept the sheriff shall execute the same by summoning the persons named therein by delivering to each person or leaving with a grown-up member of his household, a reasonable time before the date of the trial, a written or printed summons in form B in the schedule to this Ordinance. C.O., c. 28, s. 11.

Return of precept

12. The sheriff on or before the opening of the court at the time set for the trial shall deliver to the court the precept with a return showing his action thereon. C.O., c. 28, s. 12.

Omission to obey

Penalty

13. Every person summoned to serve as a juror who fails to obey the summons served on him or to answer to his name when called by the clerk shall be liable to a fine not exceeding $50 which may be immediately imposed by the court:

Provided that the court may for good cause shown reduce or entirely remit such penalty. C.O., c. 28, s. 13.

14. All fines for nonattendance of jurors shall if not paid forthwith be levied together with the sheriff's costs and expenses as authorized for the execution of civil process by warrant of distress issued by the clerk sealed with the seal of the court directed to the sheriff and sale of goods of the party fined as provided for executing writs of execution and in default of sufficient goods and chattels such person may be imprisoned for a term not exceeding thirty days. C.O., c. 28, s. 14. Enforcement of penalty

15. The name of every person included in the precept to the sheriff and summoned by him as hereinbefore provided with his residence and occupation shall by the sheriff be written distinctly upon a piece of card or paper three inches in length by one and one-half inches in width and the pieces of card or paper so written upon shall be placed in a glass or box to be by him returned to the clerk of the court with the return of the precept. C.O., c. 28, s. 15. Names of persons summoned on separate cards

16. When the case in which the precept has issued is brought on to be tried the clerk shall in open court cause the cards or papers to be mixed up in the said glass or box and then draw out so many of the said cards or papers one after another until six jurors are drawn who after all just causes for challenging allowed appear as fair and indifferent and who shall be the jury to try the issues set for trial by jury in the case. C.O., c. 28, s. 16. Selection of jury

17. When upon the application of either party to a civil cause the judge orders the matters in issue to be tried by a special jury the clerk under the direction of the judge shall select from the last revised list of jurors of the district the names of twenty-four persons who from their station and intelligence are considered by the judge qualified to try the issues and the panel shall be struck from such list and jurors summoned as hereinbefore provided in the case of a common jury. C.O., c. 28, s. 17. When special jury required

18. The party who shall apply for a special jury shall not only pay the fees for striking such jury but shall also pay all expenses occasioned by the trial of the cause by such special jury and shall not have any other allowance for the same upon taxation of costs than such party would be entitled to in case the cause had been tried by a common jury unless otherwise ordered by the judge. C.O., c. 28, s. 18. Costs of special jury

19. There shall be payable to the sheriff upon the certificate of a judge out of the general revenue fund of the Territories the sum of five cents for every name added to the list of jurors in his district. C.O., c. 28, s. 19. Sheriff's remuneration

20. This Ordinance shall come into force and take effect immediately from and after the repeal of sections 71 and 88 of *The North-West Territories Act*. C.O., c. 28, s. 20. Commencement of Ordinance

SCHEDULE.

FORM A.

PRECEPT.

In the Supreme Court of the North-West Territories, Judicial District of.....

VICTORIA by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, etc., etc.

To.....the sheriff of the Judicial District of.....

You are commanded that you cause to come before this court on..... the.....day of.....A.D. 1....., at ten o'clock in the forenoon at.....in the..... in the said Territories for the trial of.....the good and lawful men of the said Territories whose names and places of abode are given in the schedule hereto annexed.

Given under my hand and the seal of the said court at..... in the said Territories this.....day of..... A.D. 1.....

.....

Clerk.

SCHEDULE REFERRED TO IN THE ANNEXED PRECEPT IN THE CAUSE OF.....AGAINST.....

Name of Juror	Residence	When and where served

FORM B.

NORTH-WEST TERRITORIES.

SUMMONS FOR JURORS.

.....vs.....

To.....

By virtue of a precept dated.....1....., to me directed, you are hereby required and commanded to be and appear at..... on....., the.....day of..... next at the hour of.....o'clock in the.....noon to serve as a juror in the above named matter.

Herein fail not at your peril.

Sheriff's office.....1.....

.....

Sheriff.

CHAPTER 29.

An Ordinance respecting Alimony.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Jurisdiction of the Supreme Court of the Territories in alimony

1. The Supreme Court of the North-West Territories shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the court. CO., c. 29, s. 1.

CHAPTER 30.

An Ordinance to amend the Law relating to Slander.

Repealed, 1913 (2nd Session), c. 12, s. 18.

CHAPTER 31.

An Ordinance respecting Limitation of Actions in Certain Cases.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Actions on simple contracts

1. All actions for recovery of merchants' accounts, bills, notes, and all actions of debt grounded upon any lending or other contract without specialty shall be commenced within six years after the cause of such action arose. C.O., c. 31, s. 1.

The Real Property Limitation Act (Imp.) in force

2. The provisions of *The Real Property Limitation Act*, 1874, being chapter 57 of the Statutes of the Imperial Parliament, passed in the thirty-seventh and thirty-eighth years of Her Majesty's reign, are hereby declared to be in force and to have been in force in the Territories since the passing thereof. C.O., c. 31, s. 2.

3. No right to the access and use of light or any other easement, right in gross or profit *a prendre* shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the coming into force of this Ordinance. 1903 (2nd Session), c. 7, s. 1.

CHAPTER 32.

An Ordinance respecting Justices of the Peace.

(C.O., c. 32.)

Chapter 13, 1906, substituted.

CHAPTER 33.

An Ordinance respecting Constables.

(C.O., c. 33.)

Chapter 7, 1909, substituted.

CHAPTER 34.

An Ordinance respecting Distress for Rent and Extra-Judicial Seizure.

Note.—See also chapter 4, 1914, affecting.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Costs in distraints not to exceed rates in schedule

1. No person whosoever making any distress for rent nor any person whosoever employed in any manner in making such distress or doing any act whatsoever in the course of such distress or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels distrained upon and sold or from the tenant distrained on or from the landlord or from any other person whomsoever any other or more costs and charges for and in respect of such distress or any matter or thing done therein than such as are fixed in the schedule to this Ordinance and applicable to each proceeding which shall have been taken in the course of such distress and no person or persons whosoever shall make any charge whatsoever for any act, matter or thing mentioned in this Ordinance or in the said schedule unless such act, matter or thing shall have been really performed or done. C.O., c. 34, s. 1.

Seizure under chattel mortgages, etc., costs regulated

2. No person whosoever making any seizure under the authority of any chattel mortgage, bill of sale or any other extra-judicial process whatsoever nor any person whosoever employed in any manner in making such seizure or doing any act whatsoever in the course of such seizure or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels seized and sold from the person against whom the seizure may be directed or from any other person whomsoever any other or more costs and charges for and in respect of such seizure or any matter or thing done therein or thereunder than such as are fixed in the schedule hereto and applicable to each act which shall have been done in course of such seizure and no person or persons whosoever shall make any charge whatsoever for any act or matter or thing mentioned in the said schedule unless such act, matter or thing shall have been really performed and done. C.O., c. 34, s. 2.

Penalty for taking excessive costs

3. If any person making any distress or seizure referred to in sections 1 and 2 of this Ordinance shall take or receive any other or greater costs than are set down in the said schedule or make any charge whatsoever for any act, matter or thing mentioned in the said schedule and not really performed or done the party aggrieved may cause the party making the said distress or seizure to be summoned before the District Court of the judicial district in which the goods and chattels distrained upon or seized or some portion thereof lie and the said court may order the party making the distress or seizure to pay to

the party aggrieved treble the amount of moneys taken contrary to the provisions of this Ordinance and the costs of suit. C.O., c. 34, s. 3; 1910 (2nd Session), c. 2, s. 4.

Distraint for rent limited to property of tenant

Exceptions

4. A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent although the same are found on the premises; but this restriction shall not apply in favour of a person claiming title under or by virtue of an execution against the tenant or in favour of any person whose title is derived by purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise nor to the interest of the tenant in any goods on the premises in the possession of the tenant under a contract for purchase or by which he may or is to become the owner thereof upon performance of any condition nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of his in case such other relative lives on the premises as a member of the tenant's family. C.O., c. 34, s. 4.

Distress for interest on mortgage

5. The right of a mortgagee of land or his assigns to distrain for interest in arrear or principal due upon a mortgage shall notwithstanding anything stated to the contrary in the mortgage or in any agreement relating to the same be limited to the goods and chattels of the mortgagor or his assigns and as to such goods and chattels to such only as are not exempt from seizure under execution. C.O., c. 34, s. 5.

Notice of sale

6. Goods distrained for such interest or principal shall not be sold except after such notice as is required to be given by a landlord who sells goods distrained for rent. C.O., c. 34, s. 6.

SCHEDULE.

Note.—See also schedule to chapter 4, 1914, affecting.

1. Levying distress, $1.00.
2. Man in possession, per day, $1.50.
3. Appraisement, whether by one appraiser or more, two cents on the dollar on the value of goods up to $500, and one per cent. on the dollar for each additional $500 or fraction thereof up to $2,000, and one-half per cent. on all sums over that amount.
4. All reasonable and necessary disbursements for advertising.
5. Catalogue, sale, comission and delivery of goods, three per cent. on the net proceeds of the goods up to $1,000 and one and one-half per cent. thereafter.
6. For mileage for every mile (over two miles) necessarily travelled and sworn to in making any seizure under the authority of any chattel mortgage, bill of sale, or in retaking possession of goods under a hire receipt, or conditional sale agreement, when

the sheriff is employed, from the place where the warrant or authority is received, or from the sheriff's or his bailiff's office (which ever is nearest) to the place of execution of same and return, 10c. 1909, c. 4, s. 2.

7. All necessary and reasonable disbursements for removing and storing goods and removing and keeping live stock, and all other disbursements which in the opinion of the judge before whom a question as to the amount of the fees to be allowed under this Act may come for decision, are reasonable and necessary. 1910 (2nd Session), c. 2, s. 4.

CHAPTER 35.

An Ordinance respecting Arbitration.

(C.O., c. 35.)

Chapter 6, 1909, substituted.

CHAPTER 36.

An Ordinance respecting the Investigation of Accidents by Fire.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Magistrate empowered to inquire into cause of fires

1. Any justice of the peace may subject to the provisions hereinafter contained institute an inquiry into the cause or origin of any fire and whether it was kindled by design or was the result of negligence or accident and act according to the result of such inquiry. C.O., c. 36, s. 1.

No inquiry to be held except on reasonable suspicion

2. No justice of the peace shall institute an inquiry into the cause or origin of any such fire until a sworn statement in writing has been made before him that there is reasonable suspicion that such fire was the result of culpable or negligent conduct or design or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation nor until such statement having been received by him he has reported the same to the Attorney General and received from the Attorney General authority to make such inquiry. C.O., c. 36, s. 2.

Examination of witnesses

3. For the purpose of any inquiry under this Ordinance such justice of the peace shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire and shall examine such persons on oath and shall reduce their examinations to writing and return the same to the Attorney General. C.O., c. 36, s. 3.

Penalty for not attending as witness

4. If any person having been duly summoned as a witness to give evidence upon any such inquiry does not after being openly called three times appear and give evidence at such inquiry the justice of the peace shall be empowered to impose upon the person so making default such fine as he thinks fit not exceeding $10; and such justice of the peace shall make out and sign a certificate containing the name, residence, trade or calling of such person together with the amount of the fine imposed and the cause of such fine and shall cause a copy of such certificate to be served on the person so fined personally or by leaving it at his residence within seven days after holding such inquiry and if the same is not paid within the space of seven days after such certificate has been served as aforesaid a warrant of distress shall be issued by the justice of the peace to be levied on the goods and chattels of such offender and in default of such distress or if such distress shall prove insufficient such justice of the peace may commit the offender to prison for any term not exceeding twenty-one days. C.O., c. 36, s. 4.

TITLE IV.

RELATING TO REAL PROPERTY.

CHAPTER 37.

An Ordinance respecting Land held by two or more Persons.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Owners to hold as tenants in common unless intention otherwise

1. Whenever by any letters patent, transfer, conveyance, assurance, will or other assignment land or any interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate legal or equitable such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, conveyance, assurance, will or other assignment that they take as joint tenants. C.O., c. 37, s. 1.

CHAPTER 38.

An Ordinance respecting the Holding of Lands in Trust for Religious Societies and Congregations.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Trustee may be appointed to hold lands

1. When any religious society or congregation of Christians in the Territories desire to take a conveyance or transfer of land for the site of a church, chapel, meeting house, burial ground, residence or glebe for the minister or for the support of public worship and the propagation of Christian knowledge such society or congregation may appoint trustees, to whom and their successors to be appointed in such manner as may be specified in the deed of conveyance or transfer or by resolution passed in the manner provided for in the tenth section of this Ordinance the land requisite for all or any of the purposes aforesaid may be conveyed or transferred and such trustees and their successors in perpetual succession by the name expressed in the deed or resolution may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein:

Lands not to exceed 320 acres

Provided always that no religious society or congregation shall be capable of holding under the provisions of this Ordinance more than three hundred and twenty acres of land. C.O., c. 38, s. 1.

Conveyance to be registered within one year

2. Such trustees shall within twelve months after the execution of the transfer or deed of conveyance as authorized in the next preceding section cause the title to the land described therein to be registered in the land titles office of the land registration district in which the land is situated, otherwise the said deed or transfer shall be void. C.O., c. 38, s. 2.

Debts secured by mortgage

3. When a debt has been or may hereafter be contracted for the building, repairing, extending or improving a church, chapel, meeting house or residence for the minister on land held by trustees under the provisions of this Ordinance or for the purchase of the land on which the same has been or is intended to be erected the trustees or a majority of them may from time to time secure payment of the debt or any part thereof with or without interest by

Power to borrow

mortgage upon the land, church, chapel, meeting house, or residence for the minister or may borrow money to pay the debt or any part thereof and may secure the repayment of the loan with or without interest by a like mortgage. C.O., c. 38, s. 3.

Land may be leased

4. The trustees may lease for any term not exceeding twenty-one years land held by them under this Ordinance or part thereof at such rent and upon such terms as the trustees or a majority of them may deem reasonable:

Provided always that the trustees shall not lease any land which at the time of the making of the lease is necessary for

the purpose of erecting a church, chapel, meeting house or residence for the minister or for a burial ground for the religious society or congregation for whose use the land is held; and

When consent of society or congregation to lease necessary

Provided further that the trustees shall not lease the land so held by them or any part thereof for a term exceeding three years without the consent of the religious society or congregation for whose use the land is held, which consent shall be signified by resolution passed by the votes of a majority of those persons who by the constitution of the said religious society or congregation or by the practice of the church with which it is connected are entitled to vote in respect of church business, present at a meeting of the religious society or congregation duly called for the purpose of considering the proposed lease. C.O., c. 38, s. 4.

Renewal of lease

5. In any lease made under the last preceding section the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of twenty-one years for a further term of twenty-one years or any less period at such rent and on such terms as may then by the trustees for the time being be agreed upon with the lessee, his executors, administrators or assigns or may covenant or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may at the expiration of any terms be on the dimised premises; and the mode of ascertaining the amount of such rent or the value of such improvements may also be provided for in the original or any subsequent lease. C.O., c. 38, s. 5.

Trustees to have powers of landlords

6. The trustees for the time being holding land under this Ordinance which has been leased under the powers contained in the fourth and fifth sections of this Ordinance may take all such means and proceedings for the recovery of rent or arrears of rent which landlords are by law entitled to take. C.O., c. 38, s. 6.

Sale of land

7. When land held by trustees for the use of a religious society or congregation becomes unnecessary to be retained for such use and it is deemed advantageous to sell the same the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold, the terms of payment and the time of sale and after publication of the notice not less than once in each week for four successive weeks in a newspaper published in or near the place where the land is situated, sell the land at public auction according to notice, but the trustees shall not be obliged to complete or carry a sale into effect if in their judgment an adequate price is not offered for the land; and in such a case the trustees may at a subsequent time sell the land either at public auction or private sale but a less sum shall not be accepted at private sale than was offered at public sale. C.O., c. 38, s. 7.

Sanction of judge to transfer

8. Before a deed or transfer is executed in pursuance of a public or private sale the religious society or congregation for whose use the land is held shall be notified and the sanction of a judge of the Supreme Court usually exercising jurisdiction in the judicial district in which the land is situated, obtained for the execution of the deed. C.O., c. 38, s. 8.

Annual statement

9. Trustees selling or leasing land under the authority of this Ordinance shall in the month of January in each year at a meeting of the religious society or congregation duly called according to the constitution thereof or according to the practice of the church with which it is connected, have ready and open for the inspection of the said society or congregation and of any and every member thereof a statement showing all rents which accrued during the preceding year, and all sums of money in their hands for the use and benefit of the said society or congregation which were in any manner derived from the land under their control or subject to their management or from the proceeds of the sale thereof and also showing the manner in which they may have expended or dealt with the said money or any part thereof. C.O., c. 38, s. 9.

Society or congregation may specify manner of appointing succeeding trustees

10. When land is granted, transferred or conveyed to trustees for the use of any religious society or congregation and the grant, transfer or deed of conveyance of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the religious society or congregation for whose use such land is held may at a meeting of the said society or congregation duly called accordingly to the constitution thereof or according to the practice of the church with which it is connected, by the votes of a majority of those persons who by the constitution of the said society or congregation or by the practice of the church with which it is connected are entitled to vote in respect of church business, then present at such meeting, pass a resolution specifying the manner in which the successors of the trustees for the time then being are to be appointed and such resolution endorsed on or annexed to the deed, transfer or conveyance under which the land is held for the use of the said society or congregation signed by the chairman and secretary of the meeting at which the resolution is adopted shall govern and regulate the manner in which the successors of the trustees named in the original grant or conveyance shall be appointed and from and after the passing of such resolution the provisions of this Ordinance shall apply to the said society or congregation and the trustees thereof. C.O., c. 38, s. 10.

Presbyterian congregations

Exception

11. In the case of a congregation connected with the Presbyterian Church in Canada for the use or benefit of which land is now held or may hereafter be held by the board of management of the church and manse building fund of the Presbyterian Church in Canada for Manitoba and the North-West pursuant to the powers contained in the Act of Parliament of Canada passed in the forty-sixth year of the reign of Her Majesty and chaptered 97, incorporating the said board of management, in the case of any congregation of the said church which has received from the said board a loan under the provisions of the said Act, no resolution passed under the last preceding section shall have any force or be operative until the same has been submitted to the said board of management and the consent thereto of the said board of management has been engrossed in writing under their corporate seal. C.O., c. 38, s. 11.

Congregation may be incorporated

12. Where the congregation of any church or religious denomination not otherwise incorporated, desires to be incorporated for

the purpose of holding and dealing with real and personal property, they may proceed as follows:

1. A meeting of the congregation shall be called for the purpose of considering the proposed incorporation.

Declaration of incorporation

2. A majority of those present at such meeting, who by the constitution or practice of such church or religious denomination are entitled to vote in respect of church business, and hereinafter, for the purposes of this Act, called members, shall pass a declaration of incorporation in the form A hereto, or to a like effect, which shall set forth—

Name of church

(*a*) The particular church or religious denomination to which the congregation seeking incorporation belongs;

Who may vote

(*b*) A statement of those persons who, according to the rules of the congregation, are entitled to vote in respect to church business;

Corporate name

(*c*) The proposed corporate name, which shall include briefly the distinctive name or designation of the church or religious denomination to which the proposed corporation belongs, and such local description as shall serve to distinguish such proposed corporation from all others;

Officers

(*d*) The officers who shall exercise the powers of the body corporate in dealing with the property thereof;

Quorum

(*e*) The number of members that shall constitute a quorum and as such lawfully entitled to transact any business of the congregation;

Dealing with property

(*f*) The rules to be complied with before any property of the congregation shall be dealt with by the officers thereof, and such further provisions as may be decided upon. 1907, c. 22, s. 2.

Signature of declaration

13. Such declaration of incorporation shall be signed by the chairman and secretary of the meeting at which the same was passed, and shall be verified by affidavit in the form B or to the like effect by any officer of the congregation present at the meeting. 1907, c. 22, s. 2.

Declaration to be filed with registrar of joint stock companies

14. Such declaration of incorporation shall thereupon be delivered in duplicate to the registrar of joint stock companies along with a fee of fifty cents, and if the same is in substantial compliance with section 12 hereof, and if the proposed corporate name does not conflict with that of any other congregation already incorporated, the registrar shall certify under his hand and seal of office that the congregation is incorporated, and shall endorse a certificate to the same effect upon, or attach the same to the duplicate of the declaration of incorporation and return the same to the body corporate.

Certificate of incorporation

Name not to conflict

(2) If the proposed corporate name conflicts with that of any other congregation already incorporated the registrar may require such modification as will suit the case, and if the officers of the congregation who sign the declaration and affidavit are satisfied therewith the name shall be modified accordingly or a new meeting of the congregation may be called to decide upon another name, as shall appear most expedient.

(3) The registrar may require such modification as in the last preceding subsection hereof mentioned to be made as well after as before the incorporation of any congregation under the provisions of this Act. 1907, c. 22, s. 2.

Incorporation when to take effect

15. The incorporation of the congregation shall take effect upon the date of incorporation mentioned in the certificate of incorporation. 1907, c. 22, s. 2.

Members of congregation to be body corporate

Powers

16. The members of the congregation, together with such other persons as from time to time become members thereof, shall thereupon be a body corporate under the name contained in the declaration of incorporation, capable forthwith of exercising all the functions of a body corporate, with power to sue and be sued, contract and be contracted with by their corporate name; to have a common seal, and to alter or change the same at their pleasure; and to have perpetual succession; and with power to purchase, acquire by gift, devise or bequest if made at least six months before the death of the person making the same, and hold real and personal property, or movables, for the purposes of the congregation, and to alienate the same at pleasure, and shall also vest in a majority of the members of the congregation the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts, provided they do not violate the provisions of this Act, and for the purpose of this section the majority of any properly constituted meeting shall be deemed to be the majority of the congregation. 1907, c. 22,s. 2.

Majority to govern

Effect of certificate of incorporation

17. Any certificate of the incorporation of the congregation given by the registrar of joint stock companies under his seal of office shall be conclusive evidence that all the requirements of the Act in respect of registration, and of matters precedent and incidental thereto, have been complied with.

To be received as evidence

(2) Any certificate of the incorporation of any congregation given by the registrar shall be received in evidence as if it were the original certificate; and any copy of or extract from any of the documents kept and registered at the office for registration of joint stock companies, if duly certified to be true copy of extract under the hands of the registrar and his seal of office, shall for all purposes be received in evidence as of equal validity with the original document. 1907, c. 22, s. 2.

Declaration of incorporation and list of members to be kept in church

Inspection

Correction

18. The duplicate declaration of incorporation, or a certified copy thereof, and a list of the members of the congregation, shall be kept in the church or meeting house of the congregation and shall be presented at any properly constituted meeting called to transact business, and shall at all reasonable times be open to the inspection of any person lawfully attending worship therein, and the names of all persons who from time to time shall become members of the congregation, or who having been members removed from the congregation, shall be added to or struck from the said list from time to time, as the occasion requires by the proper officers of the congregation. 1907, c. 22, s. 2.

Notice of meeting

19. A meeting of the congregation to consider any proposed dealing with the property thereof shall be called by notice of not less than two weeks (including two Sundays) next before the date of the meeting, which notice shall state the time, place and particular object for which the meeting is called, and shall

be posted at the church or meeting house of the congregation and shall be read at all intervening services held in the church or meeting house. 1907, c. 22, s. 2.

Instruments

20. Instruments dealing with the property of the congregation shall be executed under the corporate seal, and attested by the signatures of not less than two officers thereof, and shall have endorsed thereon or attached thereto an affidavit by some other officer of the congregation capable of swearing positively to the facts that the execution of such instrument was authorized by the congregation at a meeting thereof duly called for the purpose and may be in the form C hereto. 1907, c. 22, s. 2.

How granted

To be attested by affidavits

To be conclusive

21. Any instrument so executed shall be conclusive evidence that all the requirements of the declaration of incorporation and all matters precedent and incidental thereto have been complied with. 1907, c. 22, s. 2.

Trustees may execute transfer

22. Where any congregation that has previously acquired lands or other property, the title to which is vested in trustees, becomes incorporated pursuant to the provisions of this Act, the trustees of the congregation, or in case of the death or removal of any of the trustees, a majority of the trustees of the congregation, may execute a transfer of the church property to the congregation in the corporate name thereof, and such transfer shall be registered without further or other proceedings, and the land shall thereupon become and be vested in a body corporate for the purposes of the congregation in question subject to the provisions hereof. 1907, c. 22, s. 2.

For failure to keep list of members

23. Any officer of any such incorporated congregation who, being charged with that duty, fails (*a*) to present for inspection at any properly constituted meeting; (*b*) to add to or take from the list of members of the congregation, as the case may require; or (*c*) to make any return herein required, shall be liable upon summary conviction to a fine not exceeding fifty dollars. 1907, c. 22, s. 2.

Returns

24. Every such corporation shall make a written return verified by affidavit of its property, membership and officers when required so to do by the Provincial Secretary. 1907, c. 22, s. 2.

Power to cancel incorporation

25. The Lieutenant Governor in Council for cause may at any time cancel and annul the incorporation of any congregation incorporated under this Act, and upon notice of such cancellation being mailed to the said corporation it shall cease to exist as such; provided however that nothing in this section contained shall be construed to impair the recourse of any creditor or claimant of the said corporation. And in any such case the Lieutenant Governor in Council may appoint such person as he thinks fit to wind up the affairs of such congregation, and distribute its assets among the members thereof, and may provide for the remuneration of such person out of the assets of the congregation or otherwise as he thinks fit. 1907, c. 22, s. 2.

Note.—The word "Act" where it appears in the above Ordinance refers to chapter 22, 1907, an amending Act, the provisions of which are included in the office consolidation.

FORM A.

DECLARATION OF INCORPORATION.

Pursuant to chapter 22 of the Acts of the Legislative Assembly of the Province of Alberta for the year 1907, amending Ordinance No. 38 of The Consolidated Ordinances of the North-West Territories, intituled "*An Ordinance respecting the Holding of Lands in Trust for Religious Societies and Congregations.*"

The congregation of the (*here set forth the particular congregation or religious denomination, with the post office address or other location, which may be either the village, town or city, or section, township, and range where situated, or other local designation, as shall be most convenient*) desires incorporation pursuant to the said Act, upon the terms following, that is to say:

1. The said congregation belongs to (*here set forth the particular church or religious denomination*).

2. The persons who, according to the rules of the congregation, are entitled to vote in respect of church business are (*set them out*).

3. The proposed corporate name is (*set it out*).

4. The officers who shall exercise the powers of the body corporate in any dealing with the property thereof are (*set them out*).

5. The rules to be complied with before any of the property of the congregation shall be dealt with by the officers thereof are as follows: (*set them out*).

6. (*Number of members constituting a quorum*) members shall constitute a quorum of the congregation, a majority of whom may deal with the matters coming before the meeting.

(*Here set forth any further provisions that may be decided upon*).

FORM B.

I, *A.B.*, of.....in the Province of Alberta, make oath and say:

1. That I hold the office of (*set out office*) in the congregation of (*name of congregation*) and have a personal knowledge of the facts in question herein.

2. That the foregoing (*or* annexed) declaration of incorporation was passed at a duly constituted meeting of the said congregation held in (*place of meeting*) on the.....day of.....19..... (*date of meeting*).

3. The said meeting was held upon due notice of the time, place and object thereof, and the transaction in and about the incorporation of the said congregation was and is *bona fide*.

Sworn before me at.....
in the Province of Alberta, this
.....day of.....19....
.....*C.D.*
A Commissioner in and for the Province of Alberta.

.....*A.B.*

FORM C.

I, *A.B.*, of.....in the Province of Alberta,
.....make oath and say:

1. That I hold the office of (*set out office*) in the congregation of (*name of congregation*), and have a personal knowledge of the facts in question herein.

2. That the execution of the foregoing (*or* annexed) instrument was authorized by the congregation at a meeting thereof duly called for the purpose.

Sworn before me at.....
in the Province of Alberta, this
.....day of.....19....
.....
A Commissioner in and for the Province of Alberta. 1907, c. 22, s. 2.

TITLE V.

RELATING TO MERCANTILE LAW.

CHAPTER 39.

An Ordinance respecting the Sale of Goods.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Sale of Goods Ordinance.*" C.O., c. 39, s. 1.

INTERPRETATION.

Interpretation

2. In this Ordinance unless the context or subject matter otherwise requires—

(*a*) "Action" includes counterclaim and set-off;

(*b*) "Buyer" means a person who buys or agrees to buy goods;

(*c*) "Contract of sale" includes an agreement to sell as well as the sale;

(*d*) "Delivery" means voluntary transfer of possession from one person to another;

(*e*) "Document of title to goods" has the same meaning as it has in *The Factors' Ordinance.*

(*f*) "*Factors' Ordinance*" means *The Factors' Ordinance* and any enactment amending or substituted for the same;

(*g*) "Fault" means wrongful act or default;

(*h*) "Future Goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

(*i*) "Goods" includes all chattels personal other than things in action or money. The term includes implements, industrial growing crops and things attached to or forming part of the land which are agreed to be served before sale or under the contract of sale;

(*j*) "Property" means the general property in goods and and not merely a special property;

(*k*) "Quality of goods" include their state or condition;

(*l*) "Sale" includes a bargain and sale as well as a sale and delivery;

(*m*) "Seller" means a person who sells or agrees to sell goods;

(*n*) "Specific goods" means goods identified and agreed upon at the time a contract of sale is made;

(*o*) "Warranty" means an agreement with reference to goods which are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done "in good faith" within the meaning of this Ordinance when it is in fact done honestly whether it be done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

(4) Goods are in a "deliverable state" within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them. C.O., c. 39, s. 2.

PART I.

FORMATION OF THE CONTRACT.

Contract of Sale.

Sale and agreement to sell

3. A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price. There may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. C.O., c. 39, s. 3.

Capacity to buy and sell

4. Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property:

Proviso

Provided that where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he must pay a reasonable price therefor. "Necessaries" in this section means goods suitable to the condition in life of such infant or minor or other person and to his actual requirements at the time of the sale and delivery. C.O., c. 39, s. 4.

Formalities of the Contract.

Contract of sale, how made

5. Subject to the provisions of this Ordinance and of any Ordinance in that behalf, a contract of sale may be made in writing (either with or without seal) or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties:

Proviso

Provided that nothing in this section shall affect the law relating to corporations. C.O., c. 39, s. 5.

Contract of sale for $50 and upwards

6. A contract for the sale of any goods of the value of fifty dollars or upwards shall not be enforceable by action unless the buyer shall accept part of the goods so sold and actually receive the same or give something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf.

(2) The provisions of this section apply to every such contract notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering the same fit for delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognize a pre-existing contract of sale whether there be an acceptance in performance of the contract or not. C.O., c. 39, s. 6.

Subject Matter of Contract.

Existing or future goods

7. The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods."

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods.

Goods which have perished

8. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made the contract is void. C.O., c. 39, s. 8.

Goods perishing before sale but after agreement to sell

9. Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided. C.O., c. 39, s. 9.

The Price.

Ascertainment of price

10. The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. C.O., c. 39, s. 10.

Agreement to sell at valuation

11. Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation the agreement is avoided:

Provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. C.O., c. 39, s. 11.

Conditions and Warranties.

Stipulations as to time

12. Unless a different intention appears from the terms of the contract stipulations as to the time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of essence of the contract or not depends on the terms of the contract.

(2) In a contract for sale "month" means *prima facie* calendar month. C.O., c. 39, s. 12.

When condition to be treated as warranty

13. Where a contract or sale is subject to any condition to be fulfilled by the seller the buyer may waive the condition or may elect to treat the breach of such conditions as a breach of warranty and not as a ground for treating the contract as repudiated.

(*a*) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract. A stipulation may be a condition though called a warranty in the contract.

(*b*) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there be a term of the contract expressed or or implied to that effect.

(2) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise. C.O., c. 39, s. 13.

Implied undertaking as to title, etc.

14. In a contract of sale unless the circumstances of the contract are such as to show a different intention there is—

1. An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods;

3. An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. C.O., c. 39, s. 14.

Sale by description

15. When there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. C.O., c. 39, s. 15.

Implied conditions as to quality or fitness

16. Subject to the provisions of this Ordinance and of any Ordinance in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

1. Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not) there is an implied condition that the goods shall be reasonably fit for such purpose:

Provided that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose;

2. Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not) there is an implied condition that the goods shall be of merchantable quality:

Provided that if the buyer has examined the goods there shall be no implied condition as regards defects which such examination ought to have revealed;

3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;

4. An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith C.O., c. 39, s. 16.

Sale by Sample.

Sale by sample

17. A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.

(2) In the case of a contract for sale by sample—

(*a*) There is an implied condition that the bulk shall correspond with the sample in quality;

(*b*) There is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(*c*) There is an implied condition that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of sample. C.O., c. 39, s. 17.

PART II.

EFFECTS OF THE CONTRACT.

Transfer of Property as between Seller and Buyer.

Goods must be ascertained

18. Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained. C.O., c. 39, s. 18.

Property passes when intended to pass

19. Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. C.O., c. 39, s. 19.

Rules for ascertaining intention

20. Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rule I.—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both be postponed.

Rule II.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing be done and the buyer has notice thereof.

Rule III.—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing be done and the buyer has notice thereof.

Rule IV.—When goods are delivered to the buyer on approval or "on sale or return" or other similar terms the property therein passes to the buyer—

(*a*) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(*b*) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection then if a time has been fixed for the return of the goods, on the expiration of such time; and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

Rule V.—Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied and may be given either before or after the appropriation is made;

(2) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee or custodier (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract. C.O., c. 39, s. 20.

Reservation of right of disposal

21. Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation

reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee or custodier for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is *prima facie* deemed to have the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him. C.O., c. 39, s. 21.

Risk *prima facie* passes with property

22. Unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not:

Provided that where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodier of the goods of the other party. C.O., c. 39, s. 22.

Transfer of Title.

Sale by person not owner

23. Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided also that nothing in this Ordinance shall affect—

(*a*) The provisions of *The Factors' Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof;

(*b*) The validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. C.O., c. 39, s. 23.

Sale under voidable title

24. When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods provided he buys them in good faith and without notice of the seller's defect of title. C.O., c. 39, s. 24.

Seller or buyer in possession after sale

25. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge, or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall

have the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make the same.

(2) Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer to that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term "mercantile agent" has the same meaning as in *The Factors' Ordinance.* C.O., c. 39, s. 25.

PART III.

Performance of the Contract.

Duties of seller and buyer

26. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. C.O., c. 39, s. 26.

Payment and delivery are concurrent conditions

27. Unless otherwise agreed delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. C.O., c. 39, s. 27.

Rules as to delivery

28. Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract express or implied between the parties. Apart from any such contract express or implied the place of delivery is the seller's place of business if he have one, and, if not, his residence:

Provided that if the contract be for the sale of specific goods which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of the sale are in possession of a third person there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller. C.O., c. 39, s. 28.

Delivery of wrong quantity

29. Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them but if the buyer accepts the goods so delivered he must pay for them at a contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

(3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties. C.O., c. 39, s. 29.

Instalment deliveries

30. Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. C.O., c. 39, s. 30.

Delivery to carrier

31. Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer the seller must make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omit so to do and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

(3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit and if the seller fails to do so the goods shall be deemed to be at his risk during such sea transit. C.O., c. 39, s. 31.

Risk where goods delivered at distant place

32. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer must nevertheless unless otherwise agreed take any risk of deterioration in the goods necessarily incident to the course of transit. C.O., c. 39, s. 32.

Buyer's right of examining goods

33. Where goods are delivered to the buyer which he has not previously examined he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. C.O., c. 39, s. 33.

Acceptance

34. The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. C.O., c. 39, s. 34.

Buyer not bound to return rejected goods

35. Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them. C.O., c. 39, s. 35.

Liability of buyer for neglecting or refusing delivery of goods

36. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. C.O., c. 39, s. 36.

PART IV.

Rights of Unpaid Seller against the Goods.

Unpaid seller defined

37. The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance—

(*a*) When the whole of the contract price has not been paid or tendered;

(*b*) When a bill of exchange or other negotible instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this part of this Ordinance the term "seller" includes any person who is in the position of a seller as for instance an agent of the seller to whom the bill of lading has been endorsed or a consignor or agent who has himself paid or is directly responsible for the price. C.O., c. 39, s. 37.

Unpaid seller's rights

38. Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law—

(*a*) A lien on the goods or right to retain them for the price while he is in possession of them;

(*b*) In the case of the insolvency of the buyer a right of stopping the goods *in transitu* after he has parted with the possession of them;

(*c*) A right of resale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage *in transitu* where the property has passed the buyer. C.O., c. 39, s. 38.

Unpaid Seller's Lien.

Seller's lien

39. Subject to the provisions of this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in the following cases namely:

(*a*) Where the goods have been sold without any stipulation as to credit;

(*b*) Where the goods have been sold on credit but the term of credit has expired;

(*c*) Where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. C.O., c. 39, s. 39.

Part delivery

40. Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. C.O., c. 39, s. 40.

Termination of lien

41. The unpaid seller of goods loses his lien or right of retention thereon—

(*a*) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(*b*) When the buyer or his agent lawfully obtains possession of the goods;

(*c*) By waiver thereof.

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods. C.O., c. 39, s. 41.

Stoppage in Transitu.

Right of stoppage *in transitu*.

42. Subject to the provisions of this Ordinance when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu*, that is to say he may resume possession of

the goods as long as they are in course of transit and may retain them until payment or tender of the price. C.O., c. 39, s. 42.

Duration of transit

43. Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is not deemed to be at an end even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. C.O., c. 39, s. 43.

How stoppage *in transitu* effected

44. The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of the seller. The expenses of such redelivery must be borne by the seller. C.O., c. 39, s. 44.

Resale by Buyer or Seller.

Effect of subsale or pledge by buyer

45. Subject to the provisions of this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto:

Provided that where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the documents to a person who takes the document in good faith and for valuable consideration then if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee. C.O., c. 39, s. 45.

Sale not generally rescinded by lien or stoppage *in transitu*

46. Subject to the provisions of this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

(2) Where an unpaid seller who has exercised this right of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price the unpaid seller may resell the goods and recover from the original buyer damage for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages. C.O., c. 39, s. 46.

PART V.

ACTIONS FOR BREACH OF THE CONTRACT.

Remedies of the Seller.

Action for price

47. Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods.

(2) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

(3) Nothing in this section shall prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be. C.O., c. 39, s. 47.

Damages for nonacceptance

48. Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for nonacceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept. C.O., c. 39, s. 48.

Remedies of the Buyer.

Damages for nondelivery

49. Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for nondelivery.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver. C.O., c. 39, s. 49.

Specific performance

50. In any action for breach of contract to deliver specific or ascertained goods the court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages. The judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the court may seem just and the application by the plaintiff may be made at any time before judgment or decree. C.O., c. 39, s. 50.

Remedy for breach of warranty

51. Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may—

(*a*) Set up against the seller the breach of warranty in diminution or extinction of the price; or

(*b*) Maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

(3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damages. C.O., c. 39, s. 51.

Interest and special damages

52. Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed. C.O., c. 39, s. 52.

PART VI.

SUPPLEMENTARY.

Exclusion of implied terms and conditions

53. Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage be such as to bind both parties to the contract. C.O., c. 39, s. 53.

Reasonable time a question of fact

54. Where by this Ordinance any reference is made to a reasonable time the question what is a reasonable time is a question of fact. C.O., c. 39, s. 54.

Rights, etc., enforceable by action

55. Where any right, duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action. C.O., c. 39, s. 55.

Auction sales

56. In the case of a sale by auction:

(1) Where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such annoucement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller. Where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction. C.O., c. 39, s. 56.

Payment into court when breach of warranty alleged

57. Where a buyer has elected to accept goods which he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof. C.O., c. 39, s. 57.

Existing laws preserved subject hereto

58. The rules of the common law including the law merchant save in so far as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law

of principal and agent and the effect of fraud, misrepresentation, duress, or coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2) Nothing in this Ordinance shall affect the enactments relating to bills of sale or any enactment relating to the sale of goods which is not expressly repealed by the Ordinance.

Mortgages or pledges

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security. C.O., c. 39, s. 58.

CHAPTER 40.

An Ordinance respecting Factors and Agents.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Factors' Ordinance.*" C.O., c. 40, s. 1. Short title

INTERPRETATION.

2. For the purpose of this Ordinance— Interpretation

1. The expression "mercantile agent" shall mean a mercantile agent having in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods; Mercantile agent

2. A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf;

3. The expression "goods" shall include wares and merchandise; Goods

4. The expression "document of title" shall include any bill of lading, dock warrant, warehousekeeper's certificate or warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize either by endorsement or delivery the possessor of the document to transfer or receive goods thereby represented; Document of title

5. The expression "pledge" shall include any contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability; Pledge

6. The expression "person" shall include any body of persons corporate or unincorporate. C.O., c. 40, s. 2. Person

DISPOSITIONS BY MERCANTILE AGENTS.

3. Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent shall subject to the provisions of this Ordinance be as valid as if he were expressly authorized by the owner of the goods to make the same: Powers of mercantile agents respecting disposition of goods

Provided that the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title

to goods any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent:

Provided that the person taking under the disposition has not at the time thereof notice that the consent has been determined.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been with the consent of the owner in possession of the goods represented thereby or of any other documents of title to the goods his possession of the first-mentioned documents shall for the purposes of this Ordinance be deemed to be with the consent of the owner.

(4) For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary. C.O., c. 40, s. 3.

Effect of pledge of documents of title

4. A pledge of the documents of title to goods shall be deemed to be a pledge of the goods. C.O., c. 40, s. 4.

Pledge for antecedent debt

5. Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge the pledgee shall acquire no futher right to the goods than could have been enforced by the pledgor at the time of the pledge. C.O., c. 40, s. 5.

Rights acquired by exchange of goods or documents

6. The consideration necessary for the validity of a sale, pledge or other disposition of goods in pursuance of this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. C.O., c. 40, s. 6.

Agreements through clerks, etc.

7. For the purpose of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. C.O., c. 40, s. 7.

Provisions as to consignors and consignees

8. Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods the consignee shall in respect of advances made to or for the use of such person have the same lien on goods as if such person were the owner of the goods and may transfer any such lien to another person.

(2) Nothing in this section shall limit or affect the validity of any sale, pledge or disposition by a mercantile agent. C.O., c. 40, s. 8.

DISPOSITIONS BY BUYERS AND SELLERS OF GOODS.

9. Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same. C.O., c. 40, s. 9. Disposition by seller remaining in possession

10. Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. C.O., c. 40, s. 10. Disposition by buyer obtaining possession

11. Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last mentioned transfer shall have the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*. C.O., c. 40, s. 11. Effect of transfer of documents on vendor's lien or right of stoppage *in transitu*

SUPPLEMENTAL.

12. For the purpose of this Ordinance the transfer of a document may be by endorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery. C.O., c. 40, s. 12. Mode of transferring documents

13. Nothing in this Ordinance shall authorize an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing. Liability of agent

(2) Nothing in this Ordinance shall prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any Saving for rights of true owner

balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Ordinance shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent. C.O., c. 40, s. 13.

Saving for common law, powers of agent

14. The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance. C.O., c. 40, s. 14.

CHAPTER 41.

An Ordinance respecting Choses in Action.

(C.O., c. 41.)

Repealed by Section 8 of Chapter 5, 1907.

CHAPTER 42.

An Ordinance respecting Preferential Assignments.

(C.O., c. 42.)

Chapter 6, 1907, substituted.

CHAPTER 43.

An Ordinance respecting Mortgages and Sales of Personal Property.

[NOTE.—Notwithstanding anything contained in *The Bills of Sale Ordinance* or in the *Ordinance respecting Hire Receipts and Conditional Sales of Goods*, and amendments thereto, any bill of sale, chattel mortgage, conditional sale, lease or other agreement of or respecting rolling stock and equipment for use on railways may be registered in the office of the registrar of joint stock companies for the province on payment of a fee of five dollars by filing in such office a copy thereof, certified by a notary public and by the secretary of the railway company the stock or equipment in connection with which is affected thereby, to be a true copy, and no other registration or filing shall be necessary, and upon being so filed the same shall be valid and effectual as if filed or registered in accordance with the provisions of the said Acts and amendments respectively, and no renewal thereof shall be required, and any discharge or partial discharge of any such bill of sale, chattel mortgage, conditional sale or other agreement may be registered in the said office in the same manner and on payment of a like fee.] 1909, c. 4, s. 3. Bills of sale, etc., on equipment of railway

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited and known as "*The Bills of Sale Ordinance.*" C.O., c. 43, s. 1. Short title

REGISTRATION DISTRICTS.

NOTE.—New Registration Districts have been formed with altered boundaries. (See page 32).

Registration districts

2. For the purposes of the registration of mortgages and other transfers of personal property in the Territories the following shall be registration districts:

Moosomin district

1. The registration district of "Moosomin" comprising that part of the Provisional District of Assiniboia as is defined by the Order of the Privy Council of Canada passed on the eighth day of May, A.D. 1882, eastward of the eleventh range of townships west of the second meridian and south of a line which may be described as follows: Commencing at a point where the line between townships twenty and twenty-one in the Dominion Lands system of survey intersects the western boundary of the Province of Manitoba, thence westerly following the said line between townships twenty and twenty-one to its intersection with the line between ranges seven and eight west of the second meridian, thence northerly along the line between ranges seven and eight to its intersection with the line between townships twenty-two and twenty-three, thence westerly along the line between the said townships twenty-two and twenty-three to its intersection with the line between ranges ten and eleven west of the second meridian in the Dominion Lands system of survey;

Yorkton district

2. The registration district of "Yorkton," comprising that part of the said Provisional District of Assiniboia, eastward of the eleventh range of townships west of the second meridian and north of the north boundry of the registration district of Moosomin;

Regina district

3. The registration district of "Regina," comprising that part of the said Provisional District of Assiniboia west of the

registration district of Moosomin and east of the west line of the twenty-third range of townships west of the second meridian;

Moose Jaw district

4. The registration district of "Moose Jaw," comprising that part of the Provisional District of Assiniboia west of the registration district of Regina and east of the west line of the twenty-third range of townships west of the third meridian;

Medicine Hat district

5. The registration district of "Medicine Hat," comprising all that portion of the said Provisional District of Assiniboia west of the registration district of Moose Jaw;

Macleod district

6. The registration district of "Macleod," comprising all that portion of the Provisional District of Alberta as defined by the said Order of the Privy Council lying south of township seventeen;

Calgary district

7. The registration district of "Calgary," comprising all that part of the said Provisional District of Alberta lying between townships sixteen and forty-three;

Edmonton district

8. The registration district of "Edmonton," comprising all that portion of the said Provisional District of Alberta lying north of township forty-two;

Battleford district

9. The registration district of "Battleford," comprising all that portion of the Provisional District of Saskatchewan as defined by the said Order of the Privy Council lying west of the fifth range of townships west of the third meridian;

Prince Albert district

10. The registration district of "Prince Albert," comprising all that portion of the said Provisional District of Saskatchewan lying east of the Battleford registration district.

Alteration of districts and formation of new districts

(2) The Lieutenant Governor in Council shall have power to alter the boundaries of any registration district now or hereafter established by adding thereto or taking therefrom; and to establish new districts and to appoint registration clerks therefor who shall hold office during pleasure; and designate at what places the offices of such clerks shall be kept. C.O., c. 43, s. 2; 1900, c. 12, s. 1. (See page 32).

REGISTRATION CLERKS.

Present clerks continued

3. The registration clerks for the existing registration districts are hereby continued in office and shall severally hold office during pleasure and their offices shall be kept at places to be designated by the Lieutenant Governor in Council.

Appointments by Lieutenant Governor in Council

(2) In the event of any vacancy occurring in the office of registration clerk by reason of death, resignation or otherwise the vacancy shall be filled by the Lieutenant Governor in Council. C.O., c. 43, s. 3.

4. The registration clerks under this Ordinance shall keep their respective offices open between the hours of ten in the forenoon and four in the afternoon on all days excepting Sundays and holidays and except on Saturdays and during the peroid of vacation prescribed by *The Judicature Ordinance* when the same shall be closed at one o'clock in the afternoon and during office hours only shall registrations be made. C.O., c. 43, s. 4.

5. No registration clerk shall draw or prepare any document or conveyance which may be filed or registered in his office under the provisions of this or any other Ordinance. C.O., c. 43, s. 5.

MORTGAGES AND SALES OF CHATTELS. FORM AND REGISTRATION.

Mortgages unaccompanied by delivery and change of possession of goods

6. Every mortgage or conveyance intended to operate as a mortgage of goods and chattels which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall within thirty days from the execution thereof be registered as hereinafter provided together with the affidavit of a witness thereto of the due execution of such mortgage or conveyance and also with the affidavit of the mortgagee or one of several mortgagees or the agent of the mortgagee or mortgagees if such agent is aware of all the circumstances connected therewith and is properly authorized by power in writing to take such mortgage in which case a copy of such authority shall be attached thereto (save as hereinafter provided under section 21 hereof) such last mentioned affidavit stating that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that it was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor or of preventing the creditors of such motrgagor from obtaining payment of any claim against him; and every such mortgage or conveyance shall operate or take effect upon, from and after the day and time of the filing thereof. C.O., c. 43, s. 6.

Mortgage may be in form appended

7. Except as to cases provided in the next following section of this Ordinance a mortgage or conveyance intended to operate as a mortgage of goods and chattels may be made in accordance with form A in the schedule to this Ordinance. C.O., c. 43, s. 7.

Mortgage to secure future advances or to indemnify endorsers, etc.

8. In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances or in case of a mortgage of goods and chattels for securing the mortgagee against the endorsement of any bills or promissory notes or any other liability by him incurred for the mortgagor not extending for a longer period than two years from the date of the mortgage and in case the mortgage is executed in good faith and sets forth fully by recital or otherwise the terms, nature and effect of the agreement and the amount of liability intended to be created and in case such mortgage is accompanied by the affidavit of a witness thereto of the due execution thereof and by the affidavit of the mortgagee or one of several mortgagees or in case the agreement has been entered into and the mortgage taken by an agent duly authorized by writing to make such agreement and take such mortgage, in which case a copy of such authority shall be attached thereto, and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit whether of the mortgagee or his agent, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage and that such mortgage is executed in good faith and for the express purpose of securing the mortgagee repayment of his advances or

against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against such mortgagor and in case such mortgage is registered as hereinafter provided within thirty days from the execution thereof the same shall be as valid and binding as mortgages mentioned in the sixth section of this Ordinance. C.O., c. 43, s. 8.

Sale of goods not attended by delivery and change of possession

9. Every sale, assignment and transfer of goods and chattels not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold shall be in writing and such writing shall be a conveyance under the provisions of this Ordinance and shall be accompanied by an affidavit of a witness thereto of the due execution thereof and an affidavit of the bargainee or one of several bargainees or of the agent of the bargainee or bargainees duly authorized in writing to take such conveyance (a copy of which authority shall be attached to the conveyance) that the sale is *bona fide* and for good consideration as set forth in the said conveyance and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor; and such conveyance and affidavits shall be registered as hereinafter provided within thirty days from the execution thereof otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. C.O., c. 43, s. 9.

Registration only affects district where made

10. Such registration shall only have effect in the registration district wherein such registration has been made. C.O., c. 43, s. 10.

Omission to register or false statement of consideration

11. In case such mortgage or conveyance and affidavit are not registered as hereinbefore provided or in case the consideration for which the same is made is not truly expressed therein the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. C.O., c. 43, s. 11.

Description of property

12. All the instruments mentioned in this Ordinance whether for the mortgage or sale, assignment or transfer of goods and chattels shall contain such sufficient and full description thereof that the same may be readily and easily known and distinguished except in the case of assignments for the general benefit of creditors in which case the description shall be sufficient if it is in the following words: "All my personal property which may be seized and sold under execution," or words to that effect. C.O., c. 43, s. 12.

Assignment for benefit of creditors

Registration to be in district where property situate

13. The proper registration officer for instruments being mortgages and transfers of personal property shall be the clerk of the registration district in which the property described in the mortgage or transfer is at the time of the execution of the instrument; such registration clerks shall file all such instruments presented to them respectively for that purpose and shall

endorse thereon the time of receiving the same in their respective offices and the same shall be kept there for the inspection of the public, subject to the payment of the proper fees. C.O., c. 43, s. 13.

Clerk to enter instruments in a book

14. Every such clerk shall number each instrument or copy filed in his office and shall enter in alphabetical order in a book to be provided by him the names of all the parties to such instrument with the number endorsed thereon opposite to each name; and such entry shall be repeated alphabetically under the name of every party thereto. C.O., c. 43, s. 14.

CONVEYANCE OF GROWING OR FUTURE CROPS.

Securities on crops

15. No mortgage, bill of sale, lien, charge, encumbrance, conveyance, transfer or assignment hereafter made, executed or created and which is intended to operate and have effect as a security shall in so far as the same assumes to bind, comprise, apply to or affect any growing crop or crop to be grown in future in whole or in part, be valid except the same shall be made, executed or created as a security for the purchase price and interest thereon of seed grain.

Crop mortgages to secure price of seed grain

(2) Every mortgage or encumbrance upon growing crops or crops to be grown, made or created to secure the purchase price of seed grain shall be held to be within the provisions of this Ordinance and the affidavit of *bona fides* among the other necessary allegations shall contain a statement that the same is taken to secure the purchase price of seed grain.

Crop must be sown within one year from mortgage

(3) No mortgage or encumbrance to secure the price of seed grain shall be given upon any crop which is not sown within one year of the date of the execution of the said mortgage or encumbrance.

Separate register of seed grain mortgages

(4) Every registration clerk shall keep a separate register of such seed grain mortgages and shall be entitled to receive the same fees for his services as provided for under section 33 of this Ordinance.

Seed grain mortgages preferential security

(5) Every such seed grain mortgage so taken and filed shall not be affected by or subject to any chattel mortgage or bill of sale previously given by the mortgagor or by any writ of execution against the mortgagor in the hands of the sheriff at the time of the registration of such seed grain mortgage but such seed grain mortgage shall be a first and preferential security for the sum therein mentioned. The date of the purchase of seed grain, the number of bushels and price per bushel must be stated in the mortgage as well as in the affidavit of *bona fides*. C.O., c. 43, s. 15.

Particulars to be given

PROCEDURE UNDER MORTGAGE ON DEFAULT.

Cause for seizure by mortgagee

16. Unless it is otherwise specially provided therein goods and chattels assigned under a mortgage or conveyance intended to operate as a mortgage of goods and chattels shall be liable to be seized or taken possession of by the grantee for any of the following causes:

Default in payment or performance of agreements

1. If the grantor shall make default in payment of the sum or sums of money thereby secured at the time therein provided for payment or in the performance of any covenant or agree-

ment contained in the mortgage or conveyance intended to operate as a mortgage and necessary for maintaining the security;

Removal of goods

2. If the grantor shall without the written permission of the grantee either remove or suffer the goods or any of them to be removed from the registration district within which they are situate;

Rent or taxes

3. If the grantor shall suffer the said goods or any of them to be distrained for rent, rates or taxes or shall suffer the said goods or any of them to be liable to seizure for rent by reason of default of the grantor in paying the same when due;

Execution

4. If execution shall have been levied against the goods of the grantor under any judgment at law;

Attempt to dispose of goods

5. If the grantor shall attempt to sell or dispose of or in any way part with the possession of the said goods. C.O., c. 43, s. 16.

RENEWAL OF MORTGAGES.

Mortgage filed to cease to be valid after two years unless renewed

17. Every mortgage filed in pursuance of this Ordinance shall cease to be valid as against the creditors of the persons making the same and against subsequent purchasers or mortgagees in good faith for valuable consideration after the expiration of two years from the filing thereof unless, within thirty days next preceding the expiration of the said term of two years, a statement exhibiting the interest of the mortgagee, his executors, administrators or assigns in the property claimed by virtue thereof and a full statement of the amount still due for principal and interest thereon and of all payments made on account thereof is filed in the office of the registration clerk of the district where the property is then situate with an affidavit of the mortgagee or of one of several mortgagees or of the assignee or one of several assignees or of the agent of the mortgagee or assignee or mortgagees or assignees duly authorized for that purpose, as the case may be, stating that such statements are true and that the said mortgage has not been kept on foot for any fraudulent purpose, which statement and affidavit shall be deemed one instrument. C.O., c. 43, s. 17; 1900, c. 12, s. 2.

Renewal of chattel mortgage

18. Such statement and affidavit shall be in the following form or to the like effect:

"Statement exhibiting the interest of *C.D.* in the property mentioned in the chattel mortgage dated the.....day of..... A.D. 1...., made between *A.B.*, of....., of the one part, and *C.D.*, of....., of the other part, and filed in the office of the registration clerk of the registration district of.....(*as the case may be*) on the day of..... 1...., and of the amount due for principal and interest thereon and of all payments made on account thereof.

"The said *C.D.* is still the mortgagee of the said property and has not assigned the said mortgage (*or* the said *E.F.* is the assignee of the said mortgage by virtue of an assignment thereof from the said *C.D.* to him dated the.....day of..... 1...., *or as the case may be*).

"No payments have been made on account of the said mortgage (*or* the following payments and no other have been made on account of the said mortgage:

"1.....—Jan. 1—Cash received.....$.....)
"The amount still due for principal and interest on the said mortgage is the sum of.....dollars computed as follows:.....
.....(*here give the computation.*)

C.D."

NORTH-WEST TERRITORIES,
To Wit:

I,.....of....., the mortgagee named in the chattel mortgage mentioned in the foregoing (*or* annexed) statement (*or* assignee of.....the mortgagee named in the chattel mortgage mentioned in the foregoing *or* annexed statement, *as the case may be*) make oath and say: Affidavit

1. That the foregoing (*or* annexed statement) is true.
2. That the chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

Sworn before me at.....
in the North-West Territories,
this.....day of.....1....

(2) Where such mortgage or conveyance is made as security for debentures and the by-law or resolution authorizing the issue of debentures, as a security for which the mortgage or conveyance was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit of the secretary thereto attached or endorsed thereon, and having the corporate seal attached thereto, together with a copy of the mortgage or conveyance certified and verified as aforesaid is filed with the registrar of joint stock companies within the time limited for filing a renewal statement in accordance with section 17 hereof, it shall not be necessary to renew the said mortgage or conveyance, but the same shall in such case continue to be valid as if the same had been duly renewed as in this Ordinance provided. Provisions for renewal of mortgage to secure debentures

(3) The registrar of joint stock companies shall keep an alphabetical register of all such by-laws, mortgages or conveyances indexed under the names of the companies executing the same, and the said register shall be open to inspection by any person on payment of such fees as may be from time to time prescribed by order in council in that behalf. C.O., c. 43, s. 18; 1907, c. 5, s. 10. Registrar of joint stock companies to keep a register of by-laws, etc.

19. Another statement in accordance with the provisions of section 17 hereof duly verified as required by that section shall be filed in the office of the registration clerk of the district where the property is then situate within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 17 and in default thereof such mortgage shall cease to be valid as against the creditors of the person making the same and as against purchasers and mortgagees in good faith for valuable consideration and so on from year to year; that is to say another statement as aforesaid duly verified shall be filed within thirty days next Further renewal yearly after first renewal

preceding the expiration of one year from the day of the filing of the former statement and in default thereof such mortgage shall cease to be valid as aforesaid. C.O., c. 43, s. 19.

Personal representative or assignee

20. The affidavit required by section 17 of this Ordinance may be made by any next-of-kin, executor or administrator of any deceased mortgagee or by an assignee claiming by or through any mortgagee or any next-of-kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next-of-kin, executor or administrator of any such assignee the assignment or the several assignments through which such assignee claims shall be filed in the office in which the mortgage is originally filed at or before the time of such refiling by such assignee, next-of-kin, executor or administrator of such assignee. C.O., c. 43, s. 20.

Filing assignments

AGENTS' AUTHORITY TO TAKE CONVEYANCES.

Authority for taking instruments may be general

21. An authority for the purpose of taking or renewing a mortgage or conveyance intended to operate as a mortgage or sale, assignment or transfer of goods and chattels under the provisions of this Ordinance may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee; and provided such general authority is duly filed with the clerk it shall not be necessary to attach a copy thereof to any mortgage filed. C.O., c. 43, s. 21.

Mortgagee to include agent or manager of company

22. For the purpose of making the affidavit of *bona fides* required by sections 6, 8 and 9 of this Ordinance and the affidavit required by section 17 of this Ordinance the expressions "mortgagee," "bargainee," or "assignee" shall, in addition to their primary meaning, mean and include the general, local or branch manager of any mortgagee, bargainee or assignee being an incorporated company. C.O., c. 43, s. 22. 1915, c. 2, s. 11.

OMISSIONS AND ERRORS.

Rectification of omissions and errors

23. Subject to the rights of third persons accrued by reason of such omissions as are hereinafter defined a judge of the District Court of the judicial district within which any mortgage or transfer or authority to take or renew the same is or should be registered or renewed on being satisfied that the omission to register a mortgage or other transfer of personal property or any authority to take or renew the same or any statement and affidavit of renewal thereof within the time prescribed by this Ordinance or the omission or misstatement of the name, residence or occupation of any person was accidental or due to inadvertence or impossibility in fact, may in his discretion order such omission or misstatement to be rectified by the insertion in the register of the true name, residence or occupation or by extending the time for such registration on such terms and conditions if any as to security, notice by advertisement or otherwise or as to any other matter as he thinks fit to direct. C.O., c. 43, s. 23; 1910 (2nd Session), c. 2, s. 5.

MORTGAGES WHEN NEW DISTRICTS FORMED.

23*a*. All chattel mortgages relating to the property within any newly established district shall (until their renewal becomes

necessary to maintain their force against creditors, subsequent purchasers or mortgagees in good faith) continue to be as valid and effectual in all respects as they would have been if the new district had not been established; but in the event of a renewal of any such chattel mortgage after the establishment of such new district the renewal statement shall be filed in the office of the registration clerk of such new district together with a certified copy of the chattel mortgage to which such renewal statement relates and of any renewals thereof under the hand of the registration clerk in whose office the same were filed; and no chattel mortgage in force and filed at the date of the establishing of such new district shall lose its priority by reason of its not being filed in the office of the registration clerk of such new district prior to its renewal. 1900, c. 12, s. 3.

ASSIGNMENT OF MORTGAGES.

Filing assignments of mortgages

24. In case any registered chattel mortgage has been assigned such assignment may upon proof by the affidavit of a subscribing witness be numbered and entered in the book mentioned in section 14 hereof in the same manner as a chattel mortgage and the proceedings authorized by sections 26 and 27 of this Ordinance may and shall be had upon a certificate of the assignee proved in manner aforesaid. C.O., c. 43, s. 24.

DISCHARGE OF MORTGAGES.

Discharge of mortgage

25. Where any mortgage of goods and chattels is registered under the provisions of this Ordinance such mortgage may be discharged by the filing in the office in which the same is registered of a certificate signed by the mortgagee, his executors or administrators in form B in the schedule hereto or to the like effect. C.O., c. 43, s. 25.

Entry and endorsement of discharge of mortgage

26. The officer with whom such chattel mortgage is filed upon receiving such certificate duly proved by the affidavit of a subscribing witness shall at each place where the number of such mortgage has been entered with the name of any of the parties thereto in the book kept under section 14 of this Ordinance or wherever otherwise in the said book the said mortgage has been entered, write the words "Discharged by certificate number (*stating the number of certificate*)"; and he shall also endorse the fact of such discharge upon the instrument discharged and shall affix his name to such endorsement. C.O., c. 43, s. 26.

Certificate of discharge

27. Any person filing a discharge of mortgage or a partial discharge of mortgage as aforesaid shall be entitled to ask for and receive from such clerk a certificate (other than the certificate which might be endorsed on a copy or duplicate of the mortgage as aforesaid) of such discharge or partial discharge in the form following or to the like effect:

Form of certificate

"North-West Territories,
Registration District of
.....

"This is to certify that an instrument purporting to be a discharge in full (*or* a partial discharge) of a certain chattel mortgage bearing date the.....day of.....and

filed the.....day of.....following, made between *A.B.*, of....., as mortgagor and *C.D.*, of....., as mortgagee, has been filed in the office of the clerk of the registration district of.....on the.....day of.....(*and in case of a partial discharge* that the goods or property mentioned in such partial discharge consists of.....*describing the chattel or property*). *E. M., Clerk.*" C.O., c. 43, s. 27.

REMOVAL OF CHATTELS MORTGAGED.

Mortgaged goods not to be removed without notice

28. No goods or chattels under mortgage shall be removed into another registration district without a notice of the intention to remove be mailed postpaid and registered to the mortgagee at his last known place of address not less than twenty days prior to such removal. C.O., c. 43, s. 28.

Removal of goods to another district

29. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the registration district in which they were at the time of the execution of the mortgage to another registration district before the payment and discharge of the mortgage a certified copy of such mortgage under the hand of the registration clerk in whose office it was first registered and of the affidavit and documents and instruments relating thereto filed in such office, shall be filed with the registration clerk of the district to which such goods and chattels are removed within three weeks from such removal otherwise the said goods and chattels shall be liable to seizure and sale under execution and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration as if never executed. C.O., c. 43, s. 29.

EVIDENCE. CERTIFIED COPIES.

Certified copies

30. Copies of any instrument filed under this Ordinance, certified by the registration clerk, shall be received as *prima facie* evidence for all purposes as if the original instrument was produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy and the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration and filing. C.O., c. 43, s. 30.

AFFIDAVITS.

Officers for oaths

31. All affidavits and affirmations required by this Ordinance may be taken and administered by the registration clerk or any person whether in or out of the Territories authorized to administer oaths or take affidavits for use in the Supreme Court of the Territories and the sum of 25 cents shall be payable for every oath thus administered. C.O., c. 43, s. 31.

EXPIRY ON HOLIDAY OF TIME FOR FILING.

Time for filing expiring on Sunday or holiday

32. Where under any provisions of this Ordinance the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit or other paper expires on a Sunday or other day on which the office in which the registering or filing is to

be made or done is closed and by reason thereof the filing or registering cannot be made or done on that day the registering or filing shall so far as regards the time of doing or making the same be held to be duly done or made if done or made on the day on which the office shall next be open. C.O., c. 43, s. 32.

CLERK'S FEES.

33. For services under this Ordinance each clerk aforesaid shall be entitled to receive the following fees: Clerk's fees

1. For filing each instrument and affidavit, including the certificate on a duplicate, if any, and for entering the same in a book as aforesaid, 50 cents;
2. For filing assignment of each instrument and for making all proper endorsements in connection therewith, 50 cents;
3. For filing certificate of discharge of each instrument and for making all proper entries and endorsements connected therewith, 50 cents;
4. For searching for each paper, 25 cents;
5. For copies of any document filed under this Ordinance with certificate thereof, 10 cents for every hundred words;
6. For every certificate under section 27 of this Ordinance, 50 cents. C.O., c. 43, s. 33.

SCHEDULE.

FORM A.

(*Section* 7.)

MORTGAGE OF CHATTELS.

This indenture made the.....day of..... A.D. 1..... between *A.B.*, of....., of the one part, and *C.D.*, of....., of the other part.

Witnesseth that in consideration of the sum of $.....now paid to *A.B.* by *C.D.* the receipt of which the said *A.B.* hereby acknowledges (*or whatever else the consideration may be*) he the said *A.B.* doth hereby assign to the said *C.D.*, his executors, administrators and assigns all and singular the several chattels and things specifically described as follows (*or* in the schedule hereto annexed) by way of security for the paymnet of the sum of $.....and interest thereon at the rate of..... per cent. per annum (*or whatever else may be the rate*) and the said *A.B.* doth further agree and declare that he will duly pay to the said *C.D.* the principal sum aforesaid together with the interest then due on the..... day of.....A.D..... (*or whatever else may be the stipulated time or times for payment*). And the said *A.B.* doth agree with the said *C.D.* that he will (*here insert terms as to insurance, payment of rent, collateral securities or otherwise which the parties may agree to for the maintenance or defeasance of the security*).

Provided always that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said *C.D.* for any cause other than those specified in section 16 of *The Bills of Sale Ordinance* except as is otherwise specially provided herein.

In witness whereof the said *A.B.* has hereunto set his hand and seal.

Signed and sealed by the said *A.B.* in the presence of me, *E.F.* (*Add name, address and occupation of witness.*)

A.B.

FORM B.

(*Section* 25.)

DISCHARGE OF CHATTEL MORTGAGE.

To the registration clerk of the registration district of.....

I, *A.B.*, of.....do certify that.....has satisfied all money due on or to grow due on a certain chattel mortgage made by.....to.....which mortgage bears date the.....day of..... A.D. 1.....and was registered (*or in case the mortgage has been renewed* was renewed) in the office of the registration clerk of the registration district of on the..... A.D. 1....., ...as number..... (*here mention the day and date of registration of each assignment thereof and the names of the parties or mention that such mortgage has not been assigned as the fact may be*) and that I am the person entitled by law to receive the money; and that such mortgage is therefore discharged.

Witness my hand this.....day of.....A.D. 1.....

Witness: (*stating residence and occupation*). *E.F.*

A.B.

CHAPTER 44.

An Ordinance respecting Hire Receipts and Conditional Sales of Goods.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Conditional sales of goods

1. Whenever on a sale or bailment of goods of the value of $15 or over it is agreed, provided or conditioned that the right of property or right of possession in whole or in part shall remain in the seller or bailor notwithstanding that the actual possession of the goods passes to the buyer or bailee the seller or bailor shall not be permitted to set up any such right of property or right of possession as against any purchaser or mortgagee of or from the buyer or bailee of such goods in good faith for valuable consideration or as against judgments, executions or attachments against the purchaser or bailee unless such sale or bailment with such agreement, proviso or condition is in writing signed by the bailee or his agent and registered as hereinafter provided. Such writing shall contain such a description of the goods the subject of the bailment that the same may be readily and easily known and distinguished:

Proviso

Provided that nothing in this section shall apply to any bailment where it is not intended that the property in the goods shall eventually pass to the bailee on payment of purchase money in whole or in part or the performance of some condition by the bailee:

Proviso as to conditional sales or bailments to railway companies

And provided further that nothing in this section shall apply in cases of conditional sales or bailments of incorporated companies to railway companies if the contract evidencing the conditional sale or bailment or a copy thereof certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit of the secretary thereto attached or endorsed thereon, and having the corporate seal attached thereto, is filed with the registrar of joint stock companies within thirty days from the execution thereof. C.O., c. 44, s. 1; 1908, c. 20, s. 2.

Registration

2. Such writing or a true copy thereof shall be registered in the office of the registration clerk for chattel mortgages in the registration district within which the buyer or bailee resides within thirty days from the time of the actual delivery of such goods to the bailee or buyer; and in the event of such goods being delivered in a registration district other than that in which the buyer or bailee resides at the time of such delivery such writing or a true copy thereof shall also be registered within thirty days from the time of the actual delivery of such goods in the registration district in which such goods are delivered. Note: See page 32 for Registration District Boundaries.

Further registration on removal into a new district

(2) If such goods are after the delivery thereof removed by the buyer or bailee into another registration district a further registration shall be made in the registration district into which such goods are removed within sixty days after such removal.

Affidavits of *bona fides*

(3) Every such agreement or a true copy thereof shall upon every such registration be accompanied by an affidavit of the seller or bailor or his agent stating that the written agreement annexed thereto truly sets forth the agreement entered into between the parties and that the said agreement was entered into *bona fide* and not for the purpose of protecting the goods mentioned therein against the creditors of the buyer or bailee. 1908, c. 20, s. 2.

3, 4, 5. *Repealed.* 1903 (2nd Session), c. 12, s. 1.

Memorandum of satisfaction of seller

6. The seller or bailor shall upon payment or tender of the amount due in respect of such goods or performance of the conditions of the bailment sign and deliver to any person demanding it a memorandum in writing stating that his claims against the goods are satisfied and such memorandum shall thereupon operate to divest the seller or bailor of any further interest or right of possession if any in the said goods. Any such memorandum if accompanied by an affidavit of execution of an attesting witness may be registered. C.O., c. 44, s. 6.

Retaking possession

7. In case the seller or bailor shall retake possession of the goods he shall retain the same in his possession for at least twenty days and the buyer, bailee or any one claiming by or through or under the buyer or bailee may redeem the same upon payment of the amount actually due thereon and the actual necessary expenses of taking possession. C.O., c. 44, s. 7.

Five days' notice of sale to be given

8. The goods or chattels shall not be sold without five days' notice of the intended sale being first given to the buyer or bailee or his successor in interest. The notice may be personally served or may in the absence of such buyer, bailee or his successor in interest be left at his residence or last place of abode or may be sent by registered letter deposited in the post office at least seven days before the time when the said five days will elapse addressed to the buyer or bailee or his successor in interest at his last known post office address in Canada. The said five days or seven days may be part of the twenty days mentioned in section 7 hereof. C.O., c. 44, s. 8.

Copies of instrument to be evidence

9. Copies of any instrument filed under this Ordinance certified by the registration clerk shall be received as *prima facie* evidence for all purposes as if the original instrument were produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy. And the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration or filing. C.O., c. 44, s. 9.

Registration fees

10. The registration clerk shall be entitled to charge a fee of 25 cents for each registration; 10 cents for each search; 10 cents per 100 words for copies of documents, and 25 cents for each certificate. C.O., c. 44, s. 10.

CHAPTER 45.

An Ordinance respecting Partnerships.

(C.O., c. 45.)

Chapter 5, 1908, substituted.

TITLE VI.

RELATING TO SPECIAL RELATIONSHIPS.

CHAPTER 46.

An Ordinance respecting Marriages.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Marriage Ordinance.*" C.O., c. 46, s. 1.

SOLEMNIZATION OF MARRIAGE.

Who may perform marriage ceremony

2. The ministers and clergymen of every church or religious denomination duly ordained or appointed according to the rites and ceremonies of the churches, denominations or religious bodies to which they respectively belong and commissioners and staff officers of the Salvation Army may by virtue of such ordination or appointment and according to the rites and usages of such churches, denominations or religious bodies respectively and commissioners appointed for that purpose by the Lieutenant Governor in Council may solemnize or perform the ceremony of marriage between any two persons not under a legal disqualification or disability to contract such marriage. C.O., c. 46, s. 2.

Marriage ceremony not to be performed without license or banns

3. Except as hereinafter provided no marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the license provided for by this Ordinance; and no minister or clergyman or other person authorized to perform the cermony or marriage shall solemnize marriage unless the parties to the intended marriage produce to him such license or unless the intention of the two persons to intermarry has been proclaimed by publication of banns at least thrice openly on two successive Sundays in some public religious assembly. C.O., c. 46, s. 3; 1901, c. 17, s. 1.

Witnesses

Registration

4. All marriages shall be solemnized in the presence of two or more credible witnesses besides the minister, clergyman, marriage commissioner or other person performing the ceremony; and every person solemnizing the marriage shall register the same according to the provisions of *The Vital Statistics Ordinance.* C.O., c. 46, s. 4.

No action against person solemnizing marriage

5. No person duly authorized who solemnizes a marriage in conformity with the provisions of section 2 of this Ordinance shall be subject to any action or liability for damages or other-

wise by reason of there having been any legal impediment to the marriage unless at the time when he performed the ceremony he was aware of the impediment. C.O., c. 46, s. 5.

ISSUE OF MARRIAGE LICENSES.

Issue of licenses

6. Marriage licenses shall be in form A in the schedule to this Ordinance and shall be supplied from the department of the Territorial Secretary and shall be issued to persons requiring the same by such persons as the Lieutenant Govenor in Council may name for that purpose. C.O., c. 46, s. 6; 1903 (1st Session), c. 11, s. 3.

Signature of licenses

7. Such licenses shall be signed by the Territorial Secretary and shall be and remain valid notwithstanding that the Territorial Secretary has ceased to hold office before the time of the issue of the license. C.O., c. 46, s. 7; 1903 (1st Session), c.11, s. 3.

Signature by issuer

8. Every issuer of marriage licenses shall sign each license as the same is issued by him. C.O., c. 46, s. 8.

Affidavit prior to grant of license

9. Before a license is granted by any issuer one of the parties to the intended marriage shall personally make an affidavit before him to the effect of form B in the schedule hereto.

(2) The affidavit may be made before any justice of the peace in any case where it is inconvenient for either of the parties to be married to attend personally before an issuer of marriage licenses:

Provided always that the reason that neither party can so attend shall be set forth in such affidavit as a justification for the issuer granting license without a personal application by one of said parties. C.O., c. 46, s. 9.

Further evidence may be required

10. In case the issuer has knowledge or reason to suspect that any of the statements in the affidavit of any applicant for a marriage license are not correct the said issuer shall require further evidence to his satisfaction before issuing the license; and a copy of all such affidavits and evidence shall be placed on file in his office. C.O., c. 46, s. 10.

Consent to marriage of minors

11. The father, if living, of any person under twenty-one years of age (not being a widower or widow) or if the father is dead then the mother of the minor or if both parents are dead then the lawfully appointed guardian or the acknowledged guardian who may have brought up or for three years immediately preceding the intended marriage supported or protected the minor shall have authority to give consent to such marriage.

Consent dispensed with

(1) Any female over the age of eighteen years who is living apart from her parents or guardians and earning her own livelihood may be excused from obtaining the consent of such parent or guardian and a statement of the facts constituting such excuse shall be set forth in the affidavit required by section 9 hereof. C.O., c. 46, s. 11; 1903 (1st Session), c. 11, s. 1.

Quarterly returns of licenses issued

12. Every issuer of marriage licenses shall on the fifteenth day of January, April, July and October in each year make a sworn return to the Territorial Secretary of all licenses issued

by him during the preceding three months with the names of the parties to whom issued and shall accompany such return with the original affidavit taken in each instance. The said return shall further state the number of unissued licenses in the custody of the issuer and shall be made in the form prescribed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may in special cases dispense with the provisions of this section and may make regulations for special returns to be made in such cases. C.O., c. 46, s. 12; 1903 (1st Session), c. 11, s. 3.

Return of unissued licenses

13. Every issuer of marriage licenses shall whenever called upon by the Territorial Secretary make a sworn return of all licenses at any time supplied to him and shall return all unissued licenses if so required. C.O., c. 46, s. 13; 1903 (1st Session), c. 11, s. 3.

Fees for licenses

14. There shall be payable to every issuer of marriage licenses on the issue of each license by him the sum of $3 of which such issuer shall be entitled to retain $1 as his fee; the remainder he shall pay over to the Territorial Treasurer at the time of each return made by such issuer to form part of the revenue of the Territories; provided that before sending any licenses to an issuer of marriage licenses the Provincial Secretary may require that the sum of two dollars ($2.00) be paid for each such license, and in case any such licenses have not been issued by the issuer of marriage licenses the Provincial Secretary may refund the sum of two dollars ($2.00) for each such license returned to him. C.O., c. 46, s. 14; 1913 (2nd Session), c. 2, s. 4.

Unauthorized issue of licenses or solemnization of marriage

Penalty

15. Any person unlawfully issuing a marriage license supplied from the department of the Territorial Secretary, any issuer of marriage licenses granting a license without first having obtained the affidavit required by this Ordinance, and any person solemnizing a marriage contrary to the provisions of this Ordinance shall, on summary conviction thereof before two justices of the peace, for every such contravention forfeit and pay a fine not exceeding $100 and costs of prosecution. C.O., c. 46, s. 15; 1903 (1st Session), c. 11, s. 3.

CIVIL MARRIAGE.

Civil marriage notice to commissioner

16. In the event of any parties objecting to or not being desirous of adopting marriage by a clergyman or minister of any religious denomination then and in that case notice in writing in form C of the schedule hereto must be given by one of the parties to the marriage commissioner where such parties propose to marry at least fourteen clear days immediately preceding the day of the intended marriage and a declaration of nondisqualification in form D of the schedule hereto must be made and signed by each of the parties so proposing to marry; and forthwith upon receipt of such notice and declaration the same shall be entered upon a book to be kept for that purpose by the marriage commissioner in his office which shall be open to the inspection of the public. 1901, c. 17, s. 2.

Commissioner's certificate

17. Upon the due compliance of the parties with the provisions of the last preceding section the marriage commissioner shall if required give a certificate of such compliance in form E of the schedule hereto. 1902, c. 17, s. 3.

Marriage by commissioner

18. After the expiration of the said period of fourteen days marriage may be contracted in the office of and solemnized by the said marriage commissioner according to the form and in the manner hereinafter mentioned but not otherwise—

(*a*) Provided that the marriage shall be contracted with open doors in the presence of two or more credible witnesses besides the marriage commissioner;

(*b*) Provided further that in the presence of such marriage commissioner and witnesses each of the parties shall declare: "I do solemnly declare that I know not of any lawful impediment why I, *A.B.*, may not be joined in matrimony to *C.D.*," and each of the parties shall say to the other: "I call upon these persons here present to witness that I, *A.B.*, do take thee, *C.D.*, to be my lawful wedded wife (*or* husband);"

(*c*) Provided also that there be no lawful impediment to the lawful marriage of such parties. 1901, c. 17, s. 4.

QUAKERS OR DOUKHOBORTSI.

19. Nothing in this Ordinance shall be construed as in any way preventing the people called Quakers or Doukhobortsi from celebrating marriage (whether either or both parties shall be of the people called Quakers or Doukhobortsi respectively) according to the rights and ceremonies of their own religion or creed.

(2) Subject to the following provisions all such Quakers or Doukhobortsi desirous of being married according to the rites and ceremonies of their own religion or creed shall not less than eight days before such marriage is solemnized give notice in writing to be signed by one of the parties in form C of the schedule hereto to a marriage commissioner of their intention to have such rite or ceremony performed; and forthwith after the performance of the said rite or ceremony shall make and sign a declaration in form F of the schedule hereto which said declaration shall be signed by both the parties to the marriage so contracted in in the presence of two witnesses who shall each severally attest such declaration by their signatures; and such declaration shall within eight days be delivered by one or other of the parties so married to the marriage commissioner to whom the aforesaid notice was given.

(3) The marriage commissioner shall upon receipt of the said declaration forthwith transmit the aforesaid notice of intention and declaration to the registrar of the division for the registration of births, marriages and deaths within which the said marriage was solemnized; and such registrar shall deal with the said notice and declaration in the manner in which it is provided by *The Vital Statistics Ordinance* that such registrar shall deal with the forms containing the original entries of marriage reported to him during the month then current. 1901, c. 17, s. 5.

MARRIAGES HERETOFORE SOLEMNIZED.

20. Every marriage heretofore solemnized between persons not under legal disqualification to contract such marriage shall be deemed a valid marriage so far as respects the civil rights of the North-West Territories of the parties of their issue and in respect of all matters within the jurisdiction of the Legislative Assembly of the North-West Territories notwithstanding that the person who solemnized such marriage was not duly authorized to solemnize marriage and notwithstanding any irregularity or insufficiency in the publication of banns or in the issue of license or notwithstanding the entire absence of either:

Provided that the parties after such solemnization lived together and cohabited as husband and wife. 1901, c. 17, s. 6.

SCHEDULE.

FORM A.

CANADA
North-West Territories. }

These are to certify that *A.B.*, of.....and *C.D.*, of....., being minded as it is said to enter into the contract of marriage and being desirous of having the same duly solemnized the said *A.B.* (*or C.D.*) has made oath that he (*or* she) believes that there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

And these are therefore to certify that the requirements in this respect of the *Ordinance Respecting Marriages* have been complied with.

Given under my hand at Regina in the North-West Territories this..... day of.....A.D. 1.....

.....

Territorial Secretary.

Issued at.....in the North-West Territories this day of.....A.D. 1.....

.....

Issuer.

C.O., c. 46, form A; 1903 (1st Session), c. 11, s. 3.

FORM B.

I, *A.B.*,.....Bachelor (*or as the case may be*),
or,
C.D.,.....Spinster (*or as the case may be*), make oath and say as follows:

1. I and *C.D.*, of....., Spinster (*or as the case may be*) (*or A.B.*, of....., Bachelor (*or as the case may be*) are desirous of entering into the contract of marriage and of having our marriage duly solemnized at.....

2. According to the best of my knowledge and belief there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I am of the age of.....years and the said *C.D.* (*or A.B.*) is of the age of.....years.

4. (*In case one of the parties is under the age of twenty-one years add*)
E.F., of....., is the person whose consent to the said marriage is required by law and the said *E.F.* has formally consented to the said marriage.

(*Or if both parties are under age*).
E.F., of....., and *G.H.*, of....., are the persons whose consent to the said marriage is required by law and the said *E.F.* and *G.H.* have formally consented to the said marriage.

(*Or if in the case of one of the minors there is no person whose consent is required by law add according to the facts.*)

The father of the said *C.D.* (*or A.B.*) is dead and the mother of the said *C.D.* (*or A.B.*) is dead and the said *C.D.* (*or A.B.*) having no lawfully appointed or acknowledged guardian there is no person who has authority to give consent to the said marriage.

(*In case both the parties are minors and there is no person whose consent is required by law add a similar statement concerning the other party according to the facts.*)

(Signed).....*A.B.* (*or C.D.*)

Sworn before me at.....
in the North-West Territories
this.....day of.....A.D.
1.....
(*Signed*).....*I.J.*

C.O., c. 46, form B; 1903 (1st Session), c. 11, s. 2.

FORM C.

NOTICE OF MARRIAGE.

To.....of.....
Marriage Commissioner.

I hereby give you notice that a marriage is intended to be had on the day of.....19.....between me and the other party described and named herein.

Name	Condition	Rank or Profession	Age	Dwelling Place

Witness my hand this.....day of.....19....
(Signed).....*A.B.*

1901, c. 17, form C.

FORM D.

DECLARATION OF NONDISQUALIFICATION.

We severally do solemnly declare that we know of no lawful impediment of kindred or alliance or other lawful hindrance why we may not be joined in matrimony.

.....of.....
.....of.....
.....1.....

1901, c 17, form D.

FORM E.

MARRIAGE COMMISSIONER'S CERTIFICATE.

I,....., marriage commissioner, in the North-West Territories, do hereby certify that on the.....day of 19.....notice was duly entered in the marriage notice book kept by me of the marriage intended between the parties therein named and described, delivered under the hand of..... one of the parties, that is to say—

Name	Condition	Rank or Profession	Age	Dwelling Place

Date of notice entered.....19.....
Date of certificate given.....19.....
Witness my hand at.....
this.....day of.....19....

.....
Marriage Commissioner.

1901, c. 17, form E.

FORM F.

DECLARATION OF MARRIAGE.

We, the persons hereinafter described, declare that marriage according to the rites and ceremonies of the people called (Quakers *or* Doukhobortsi, *as the case may be*) was contracted by us this.....day of 19.....and we each severally further declare that we know of no lawful impediment of kindred or alliance or other lawful hindrance why we *A.B.* and *C.D.*, may not be joined in matrimony.

1901, c. 17, form F.

Note.—The Territorial Secretary referred to in this Ordinance is now designated Provincial Secretary.

CHAPTER 47.

An Ordinance respecting the Personal Property of Married Women.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Personal property of married women

1. A married woman shall in respect of personal property be under no disabilities whatsoever heretofore existing by reason of her coverture or otherwise but shall in respect of the same have all the rights and be subject to all the liabilities of a *feme sole*. C.O., c. 47, s. 1.

CHAPTER 48.

An Ordinance respecting Compensation to the Families of Persons Killed by Accidents.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Interpretation

1. The following words and expressions shall have in this Ordinance the meanings hereby assigned to them respectively so far as such meanings are not excluded by the context or by the nature of the subject matter:

Parent

1. "Parent" shall include father, mother, grandfather, grandmother, stepfather, stepmother; and

Child

2. "Child" shall include son, daughter, grandson, granddaughter, stepson, stepdaughter. C.O., c. 48, s. 1.

When compensation recoverable

2. Whenever the death of a person has been caused by such wrongful act, neglect or default as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in each case the person who would have been liable if death had not ensued shall be liable to an action for damages notwithstanding the death of the party injured. C.O., c. 48, s. 2.

Who to benefit by action

3. Every such action shall be for the benefit of the wife, husband, parent, child, brother or sister of the person whose death has been so caused and shall be brought by and in the name of the executor or administrator of the person deceased and in every such action the court may give such damages as it thinks proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought. C.O., c. 48, s. 3.

Limitation of action

4. Not more than one action shall lie for and in respect of the same subject matter of complaint and every such action shall be commenced within twelve months after the death of the deceased person. C.O., c. 48, s. 4.

Note.—See also *The Workmen's Compensation Act*, 1908, chapter 12.

CHAPTER 49.

An Ordinance respecting Insurance for the Benefit of Wife and Children.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Interpretation

1. In this Ordinance "maturity of the policy" or "maturity of the contract," means the happening of the event or the expiration of the term at which the benefit under the policy or contract accrues due. C.O., c. 49, s. 1.

Husbands may insure for benefit of wife or children

2. Any person may insure his life for the whole term thereof or for any definite period for the benefit of his wife and children or of his wife and some one of his children or of his children only or of some one of them and where the insurance is effected for the benefit of more than one he may apportion the amount of the insurance money as he may deem proper. C.O., c. 49, s. 2.

May be in name of wife or trustee

3. The insurance may be effected either in the name of the person whose life is insured or in the name of his wife or of any other person (with the assent of such other person) as trustee. C.O., c. 49, s. 3.

Insurance may be declared for benefit of wife or children

4. In case a policy or written contract of life insurance effected by a man on his life, is expressed upon the face of it to be for the benefit of his wife or his wife and children or any of them or in case he has heretofore endorsed or may hereafter endorse or by any writing identifying the policy by its number or otherwise has made or may hereafter make a declaration that the policy is for the benefit of his wife or of his wife and children or any of them such policy shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the intent so expressed or declared and so long as any object of the trust remains, the money payable under the policy shall not be subject to the control of the husband or his creditors or form part of his estate when the sum secured by the policy or written contract becomes payable but this shall not be held to interfere with any pledge of the policy to any person prior to such declaration.

Antenuptial policy

(2) In case of a policy or written contract of life insurance effected before marriage a declaration under this section shall be and be deemed to have been as valid and effectual as if such policy or contract had been effected after marriage but nothing herein contained shall affect any action or proceeding now pending. C.O., c. 49, s. 4.

Apportionment may be varied

5. The insured may by an instrument in writing attached to or endorsed on or identifying the policy by its number or otherwise, vary an apportionment previously made so as to extend the benefits of the policy to the wife or the children to one or more of them although the policy is expressed to be for

the benefit of the wife alone or the child or children alone or although a prior declaration was so restricted; and he may also apportion the insurance money among the persons intended to be benefited; and may from time to time by an instrument in writing attached to or endorsed on the policy or referring to the same alter the apportionment as he deems proper; he may also by his will make or alter the apportionment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will except so far as such other apportionment has been acted on before notice of the apportionment by the will.

Apportionment by will

(2) This section applies to policies heretofore issued as well as to future policies. C.O., c. 49, s. 5.

Provision where no apportionment

6. Where no apportionment is made all persons entitled to be benefited by the insurance shall be held to share equally in the same; and where it is stated in the policy or declaration that the insurance is for the benefit of the wife and children generally or of the children generally without specifying the names of the children the word children shall be held to mean all the children of the insured living at the maturity of the policy whether by his then or any former wife and the wife to benefit by the policy shall be the wife living at the maturity thereof. C.O., c. 49, s. 6.

Surrender or assignment of policy

7. Any such policy may be surrendered or assigned:

(*a*) Where the policy is for the benefit of children only and the children surviving are of the full age of twenty-one years if the person insured and all such surviving children agree to so surrender or assign; or

(*b*) Where the policy is for the benefit of both a wife and children and the surviving children are all of the full age of twenty-one years if the person insured and his then wife if any and all such surviving children agree to so surrender or assign; or

(*c*) Where the policy is for the benefit of a wife only or of a wife and children and there are no children living of the person insured and his then wife agrees to so surrender or assign. C.O., c. 49, s. 7.

Apportioned policy

8. Where an apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons in whose favour the apportionment has been made die in the lifetime of the insured the insured may by an instrument in writing attached to or endorsed on or otherwise referring to and identifying the policy of insurance declare that the share formerly apportioned to the person so dying shall be for the benefit of such other person or persons as he may name in that behalf not being other than the wife and children of the insured and in default of any such declaration the share of the person so dying shall be the property of the insured and may be dealt with and disposed of by him as he may see fit and shall at his death form part of his estate. C.O., c. 49, s. 8.

Death of beneficiary before person insured

No apportionment

9. Where no apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons entitled

to the benefit of the insurance die in the lifetime of the insured and no apportionment is subsequently made by the insured the insurance shall be for the benefit of the survivor or of the survivors of such persons in equal shares if more than one; and if all the persons so entitled die in the lifetime of the insured the policy and the insurance money shall form part of the estate of the insured; or after the death of all the persons entitled to such benefit the insured may by an instrument executed as aforesaid make a declaration that the policy shall be for the benefit of his then or any future wife or children or some one of them. C.O., c. 49, s. 9. Death of beneficiary

10. When the insurance money becomes due and payable it shall be paid according to the terms of the policy or of any declaration or instrument as aforesaid as the case may be free from the claims of any creditors of the insured except as herein provided. C.O., c. 49, s. 10. Payment of insurance money

11. Where the insurance money or part thereof is for the benefit in whole or in part of the children of the insured and the children are mentioned as a class and not by their individual names the money shall not be payable to the children until reasonable proof is furnished to the company of the number, names and ages of the children entitled. C.O., c. 49, s. 11. Insurance for children. Proof to be adduced

12. The insured may by the policy or by his will or by any writing under his hand appoint a trustee or trustees of the money payable under the policy and may from time to time revoke such appointment in like manner and appoint a new trustee or new trustees and make provision for the appointment of a new trustee or trustees and for the investment of the money payable under the policy. Payment made to such trustee or trustees shall discharge the company. C.O., c. 49, s. 12. Appointment of trustees

13. If no trustee is named in the policy or appointed as mentioned in section 12 hereof to receive the shares to which infants are entitled their shares may be paid to the executors of the last will and testament of the insured or to a guardian of the infants duly appointed by the Supreme Court of the North-West Territories or a judge thereof upon the application of the wife or of the infants or their guardian and such payment shall be a good discharge to the insurance company. C.O., c. 49, s. 13. Payment where no trustees

14. Any trustee named as provided for in the last preceding two sections and any executor or guardian may invest the money received in government securities or municipal or school debentures or in mortgages of real estate or in any other manner authorized by the will of the insured and may from time to time alter, vary and transpose the investments and apply all or any part of the annual income arising from the share or presumptive share of each of the children in or towards his or her maintenance and education in such manner as the trustee, executor or guardian thinks fit and may also advance to and for any of the children notwithstanding his or her minority the whole or any part of the share of the child of and in the money for the advancement or preferment in the world or on the marriage of such child. C.O., c. 49, s. 14. Investment by trustees

Security by guardian

15. A guardian appointed as provided in section 13 hereof shall give security to the satisfaction of the court or judge for the faithful performance of his duty as guardian and for the proper application of the money which he may receive. Where the amount of the insurance money payable to a guardian of infants does not exceed $400 and probate is sought in respect of a will for the sole purpose of obtaining insurance money to an amount not exceeding $400 the fees payable on the appointment of such guardian or executor shall be $4 and no more and such fees shall be regulated in the manner prescribed. C.O., c. 49, s. 15.

Payment of insurance money into court where no trustee, etc.

16. If there is no trustee, executor or guardian competent to receive the share of any infant in the insurance money and the insurance company admits the claim or any part thereof the company at any time after the expiration of two months from the date of their admission of the claim or part thereof may obtain an order from the Supreme Court of the North-West Territories or a judge thereof for the payment of the share of the infant into court; and in such case the costs of the application shall be paid out of the share (unless the court or judge otherwise directs) and the residue shall be paid into court pursuant to the order; and such payment shall be a sufficient discharge to the company for the money paid; and the money shall be dealt with as the court or judge may direct.

Order for payment of insurance moneys

(2) If the company does not within four months from the time the claim is admitted either pay the same to some person competent to receive the money under this Ordinance or pay the same into the Supreme Court the said court or judge thereof may upon application made by some one competent to receive the said money or by some other person on behalf of the infant order the insurance money or any part thereof to be paid to any trustee, executor or guardian competent to receive the same or to be paid into court to be dealt with as the court or judge may direct and any such payment shall be a good discharge to the company.

Costs

(3) The court or judge may order the cost of the application and any costs incidental to establishing the authority of the party applying for the order to be paid out of such moneys or by the company or otherwise as may seem just and the court or judge may also order the costs of and incidental to obtaining out of court moneys voluntarily paid in by a company to be paid out of such moneys. C.O., c. 49, s. 16.

Surrender of policy for paid up policy

17. If a person who has heretofore effected or who hereafter effects an insurance for the purposes contemplated by this Ordinance whether the purpose appears by the terms of the policy or by endorsement thereon or by an instrument referring to and identifying the policy finds himself unable to continue to meet the premiums he may surrender the policy to the company and accept in lieu thereof a paid up policy for such sum as the premiums paid would represent payable at death or at the endowment age or otherwise (as the case may be) in the same manner as the money insured by the original policy if not surrendered would have been payable; and the company may accept the

surrender and grant the paid up policy notwithstanding any declaration or direction in favour of the wife and children or any of them. C.O., c. 49, s. 17.

Borrowing for payment of premiums

18. The person insured may from time to time borrow from the company insuring or from any other company or person on the security of the policy such sums as may be necessary and the same shall be applied to keep the policy in force on such terms and conditions as may be agreed on; and the sums so borrowed together with such lawful interest thereon as may be agreed upon shall so long as the policy remains in force be a first lien on the policy and on all moneys payable thereunder notwithstanding any declaration or direction in favour of the wife or children or any or either of them. C.O., c. 49, s. 18.

Bonuses and profits

19. Any person insured under the provisions of this Ordinance may in writing require the insurance company to pay the bonuses or profits accruing under the policy or portions of the same to the insured; or to apply the same in reduction of the annual premiums payable by the insured in such way as he may direct; or to add the said bonuses or profits to the policy; and the company shall pay or apply such bonuses or profits as the insured directs and according to the rates and rules established by the company:

Provided always that the company shall not be obliged to pay or apply such bonuses or profits in any other manner than stipulated in the policy or the application therefor. C.O., c. 49, s. 19.

Several actions

Consolidation

Parties

20. In case of several actions being brought for insurance money the court is to consolidate or otherwise deal therewith so that there shall be but one action for and in respect of the shares of all the persons entitled under a policy. If an action is brought for the share of one or more infants entitled all the other infants or the trustees, executors or guardians entitled to receive payment of the shares of such other infants shall be made parties to the action and the rights of all the infants shall be dealt with and determined in one action. The persons entitled to receive the shares of the infants may join with any adult person claiming shares in the policy. In all actions where several persons are interested in the money the court or judge shall apportion among the parties entitled any sum directed to be paid and shall give all necessary directions and relief. C.O., c. 49, s. 20.

Notice to insurance company

21. No declaration or appointment affecting the insurance money or any portion thereof nor any appointment or revocation of a trustee shall be of any force or effect as respects the company until the instrument or a duplicate or copy thereof is deposited with the company. Where a declaration or endorsement has been heretofore made and notice has not been given the company may until they receive notice thereof deal with the insured or his executors, administrators or assigns in respect of the policy in the same manner and with the like effect as if the declaration or endorsation had not been made. C.O., c. 49, s. 21.

Rights of creditors

22. If the policy was effected and premiums paid by the insured with intent to defraud his creditors the creditors shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. C.O., c. 49, s. 22.

No interference with other modes of assignment, etc.

23. Nothing contained in this Ordinance shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his or her father, mother, husband, or wife or children or some one of them in any other mode allowed by law. C.O., c. 49, s. 23.

Surrender or assignment of policy

24. Where all the persons entitled to be benefited whether by original insurance, by written declaration or instrument of variation or apportionment under any policy are of full age they and the person insured may surrender the policy or assign the same either absolutely or by way of security. C.O., c. 49, s. 24.

Persons entitled in succession

25. Where any policy of insurance or written contract of life insurance or the declaration endorsed upon or attached to any policy of insurance to which this Ordinance applies whether such declaration has heretofore been or shall hereafter be made provides that the policy shall be for the benefit of a person and in the event of the death of such person for the benefit of another person such first mentioned person shall if living be deemed for the purposes of section 24 of this Ordinance the person entitled to be benefited under such policy. C.O., c. 49, s. 25.

CHAPTER 50.

An Ordinance respecting Masters and Servants.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Contracts of hiring

1. Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties. 1904, c. 3, s. 1.

Misconduct of servant

Penalty

2. Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations forfeit and pay such sum of money not exceeding $30.00 as to the justice or magistrate seems meet together with costs of prosecution; and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month unless the fine imposed and costs together with the costs of commitment and conveying such convicted person to the place of imprisonment be sooner paid. 1904, c. 3, s. 2.

Proceedings on nonpayment of wages

3. Any justice upon oath of any employee, servant or labourer complaining against his master or employer concerning any nonpayment of wages (not exceeding two months' wages the same having been first demanded) illusage or improper dismissal by such master or employer may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall examine into the matter of the complaint whether the master or employer appears or not; and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master and may direct the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid) together with costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer. 1904, c. 3, s. 3.

(2) In the event of the said justice determining that the servant or labourer has been improperly dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid) direct such master or employer to pay such servant or labourer such further amount as to him may seem reasonable, but not exceeding in any event four weeks' wages at the rate at which he was being paid by his master or employer when improperly dismissed as aforesaid, or an amount

equal to the wages which would have been earned by such servant or labourer between the date of his dismissal and the date of the determination of the matter of the complaint by such justice had such servant or labourer continued in such employment at the rate at which he was being paid when improperly dismissed as aforesaid, whichever shall be greater, together with the costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer.

(3) In the event of the said justice determining that the servant or labourer has, for good and sufficient cause, been dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding two months' wages as aforesaid) direct such master or employer to pay such servant or labourer an amount not exceeding the wages which would have been earned by such servant or labourer between the date of his dismissal and the date of the determination of the matter of the complaint by such justice had such servant or labourer continued in such employment at the rate at which he was being paid when dismissed as aforesaid, together with the costs of prosecution, which amount may be levied by distress and sale of the goods and chattels of such master or employer. 1904, c. 3, s. 3; Amended 1909, c. 4, s. 4; 1911-12, c. 4, s. 11.

(4) If upon the inquiry by the justice it is made to appear by the oath of the master or employer or some person acquainted with the facts that such master or employer would or might be entitled, in a civil action by the complainant, for the recovery of the wages claimed to be due for services rendered or for improper dismissal or both, to a claim by way of set-off or counterclaim such justice shall in a summary manner inquire into such set-off or counterclaim, and if he determines that the right to such set-off or counterclaim is established, direct the payment to the complainant of the wages determined to be due to him after deducting therefrom the amount for which such justice is of the opinion that the employer or master is entitled to such set-off or counterclaim, together with the costs of prosecution, or if such amount is equal to or greater than the wages determined to be due to the complainant the justice shall dismiss such complaint. 1911-12, c. 4, s. 11.

(5) Nothing herein contained shall be deemed to prejudice or in any way affect the right of any master or employer, or his administrators, executors or assigns, to any civil remedy to which he or they might be entitled against such servant or labourer by reason of such set-off or counterclaim. 1911-12, c. 4, s. 11.

Limit of time for instituting proceedings

4. Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or been terminated or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen. 1904, c. 3, s. 4.

Ordinance applies to contracts made outside Territories

5. The provisions of this Ordinance shall be held to apply in the Territories to contracts and agreements made at any place outside the same. 1904, c. 3, s. 5.

Civil remedy preserved

6. Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers. 1904, c. 3, s. 6.

"Master" or "Employer"

7. The term "master" or "employer" wherever used in this Ordinance shall include a corporation as well as an individual or partnership. 1904, c. 3, s. 7.

CHAPTER 51.

An Ordinance respecting the Legal Profession and the Law Society of the Territories.

(C.O., c. 51.)

Chapter 20, 1907, substituted.

CHAPTER 52.

An Ordinance respecting the Medical Profession.

(C.O., c. 52.)

Chapter 28, 1906, substituted.

CHAPTER 53.

An Ordinance respecting Dentistry.

(1903, 2nd Session, c. 16.)

Chapter 22, 1906, substituted.

CHAPTER 54.

An Ordinance respecting Chemists and Druggists.

(C.O., c. 54.)

Chapter 38, 1910 (2nd Session), substituted.

CHAPTER 55.

An Ordinance respecting Veterinary Surgeons.

(C.O., c. 55.)

Chapter 57, 1906, substituted.

CHAPTER 56.

An Ordinance respecting Hotel and Boarding House Keepers.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Hotelkeepers' Ordinance.*" C.O., c. 56, s. 1.

LIEN OF HOTEL OR BOARDING HOUSE KEEPER.

Right of detention and sale of goods of lodger indebted for board, etc.

2. Any hotel, boarding or lodging house keeper may seize and detain in his hotel, house, or on his premises, and before the same shall have been removed therefrom, the trunks and personal property of any person who is indebted to him for board and lodgings and shall be responsible for the safe keeping of the same; and in addition to all remedies provided by law he shall have the right in case the charges remain unpaid for three months after the seizure thereof to sell by public auction the baggage and property of such guest, boarder or lodger, so seized, on posting and keeping posted during the period of one week on the outside of the door of such hotel, boarding or lodging house a notice of such intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, a description of the baggage or other property to be sold, the time and place of sale, and the name of the auctioneer, and after such sale, such inn, hotel, boarding or lodging house keeper may apply the proceeds of such sale in payment of the amount due to him as aforesaid and the costs of such advertising and sale; and he shall pay over the surplus if any to the person entitled thereto on application being made by him therefor; and in case application therefor be not forthwith made he shall immediately pay the same to the Territorial Treasurer, to be kept by him for such owner for one year, after which time if such owner has not previously claimed the amount so kept the same shall form part of the general revenue fund of the Territories. C.O., c. 56, s. 2.

Disposition of surplus

No lien for liquors

3. No hotel, boarding or lodging house keeper shall have a right to detain the trunks or personal property of any one, or to have a lien thereon, for wines or spirituous or fermented liquors supplied to him or to any one else by his order. C.O., c. 56, s. 3.

LIABILITY OF HOTEL KEEPER.

Limitation of liability of hotel keeper in certain cases

4. No hotel keeper shall after the coming into force of this Ordinance be liable to make good to any guest of such hotel keeper any loss of or injury to goods or property brought to his hotel (not being a horse or other live animal or any gear appertaining thereto or any carriage) to a greater amount than $200 except in the following cases, that is to say:

1. When such goods or property shall have been stolen, lost or injured through the default or neglect of such hotel keeper or any servant in his employ;

2. When such goods or property shall have been deposited expressly for safe custody with such hotel keeper:

Provided always that, in case of such deposit it shall be lawful for such hotel keeper if he thinks fit to require as a condition to his liability that such goods or property shall be deposited in a box or other receptacle fastened and sealed by the person depositing the same. C.O., c. 56, s. 4.

Refusal of hotel keeper to receive goods into safe custody

5. If any hotel keeper shall refuse to receive for safe custody as before mentioned any goods or property of his guest, or if any such guest shall through any default of the hotel keeper be unable to deposit such goods or property as aforesaid, the hotel keeper shall not be entitled to the benefit of this Ordinance in respect of such goods or property. C.O., c. 56, s. 5.

ORDINANCE TO BE POSTED.

This Ordinance to be posted in hotels

6. Every hotel keeper shall cause to be kept conspicuously posted in the office and public rooms in his hotel a copy of this Ordinance printed or plainly written, and he shall be entitled to the benefits of this Ordinance in respect of such goods or property only as shall be brought to his hotel while such copy shall be so posted as aforesaid. C.O., c. 56, s. 6.

CHAPTER 57.

An Ordinance respecting Keepers of Livery, Boarding and Sale Stables.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Livery Stable Keepers' Ordinance.*" C.O., c. 57, s. 1.

INTERPRETATION.

Interpretation

2. In this Ordinance unless the context otherwise requires:

Livery stable keeper

1. The expression "livery stable keeper" means and includes any person who for a money consideration or the equivalent thereof carries on the business of letting or hiring out carriages, sleighs, or other vehicles, or horses or other animals, whether with or without a carriage, sleigh or other vehicle, and whether accompanied by an employee of the livery stable keeper or not;

Boarding stable keeper

2. The expression "boarding stable keeper" means and includes any person who, for a money consideration or its equivalent, stables, boards or cares for any animal;

Sales stable keeper

3. The expression "sales stable keeper" means and includes any person who stables, boards or cares for any animal other than his own, with the intention of selling or disposing of the same, and who receives or is to receive payment for such services whether in the nature of a commission or otherwise. C.O., c. 57, s. 2.

LIEN OF STABLE KEEPER. ENFORCEMENT.

Lien on animals and effects

3. Every livery stable, boarding stable or sales stable keeper shall have a lien on the animals and effects hereinafter mentioned for the value or price of any food, care, attendance or accommodation furnished for any such animal or effects and in addition to all other remedies provided by law may detain in his custody and possession any animal, vehicle, harness, furnishings or other gear appertaining thereto and the personal effects of any person who is indebted to him for stabling, boarding or caring for such aminals. C.O., c. 57, s. 3.

Detention for indebtedness

Care of animals and effects detained

4. Every livery stable, boarding stable or sales stable keeper who has exercised the right of detention by this Ordinance provided shall be obliged to keep in his possession and be responsible for the proper care of any animal or effects detained by him for the full period of such detention unless they shall sooner be released; and if the owner does not reclaim the animals and effects so detained by paying the indebtedness in respect of the same within one month from the commencement of such detention, the keeper detaining may sell or cause the same to

Sale by public Auction

be sold by public auction on giving two weeks' notice of sale by advertisement in the newspaper published nearest to such stable, or if more than one newspaper be published in the same locality, then in either one and by posting up notices in the nearest post office and in the said livery or boarding stable of the intended sale, stating (if known): Notice of sale

(*a*) The names of the owner and the person or persons who brought such animals or effects to the stable;
(*b*) The amount of indebtedness and charges for detention;
(*c*) A description of the animals and effects; and
(*d*) The name of the seller. C.O., c. 57, s. 4.

5. The proceeds derived from such sale shall be applied: Application of proceeds of sale

(*a*) In paying the expenses incurred by such detention, advertising and sale;
(*b*) In paying the debt for which such detention was made; and the surplus if any shall be paid to the person entitled thereto on application being made by him therefor. C.O., c. 57, s. 5.

6. In case such owner does not apply for the same within one month from the day of such sale then such surplus shall be handed over to the Territorial Treasurer to be kept by him in a special trust account for one year, after which time if such owner does not appear or claim the amount so kept the same shall be paid over and belong to the general revenue fund of the Territories. C.O., c. 57, s. 6. Balance of proceeds if not claimed to be handed to Territorial Treasurer

ORDINANCE TO BE POSTED.

7. It shall be the duty of every livery stable, boarding stable and sales stable keeper to have a copy of this Ordinance hung or posted in a conspicuous place in every such stable and in default of compliance with this section he shall not be entitled to the benefit of this Ordinance. C.O., c. 57, s. 7. Copy of Ordinance to be posted in stable

PERIODICAL CLEANSING OF STABLE.

8. Every livery stable, boarding stable and sales stable keeper in the Territories shall in each and every year in the months of April and October thoroughly cleanse all the stalls, mangers and feed boxes in such stable by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of the same a solution of bichloride of of mercury in the following proportions, namely, one-half drachm to one gallon of water; and the keeper of any such stable who shall fail during each of the months aforesaid in any year to cause such cleansing to be done shall for such default or omission on summary conviction before any justice of the peace be liable for the first offence to a fine of not more than $10 and to a fine of not more than $25 for every subsequent offence. C.O., c. 57, s. 8. Stable to be thoroughly cleansed and disinfected twice every year

CHAPTER 58.

An Ordinance respecting Auctioneers, Hawkers and Pedlars.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Interpretation Hawker Pedlar

1. In this Ordinance the expression "hawker" or "pedlar" means and includes any person who (being a principal or any agent in the employ of any person) goes from house to house selling or offering for sale any goods, wares or merchandise or carries and exposes samples or patterns of any goods, wares or merchandise to be afterward delivered within the Territories to any person not being a wholesale or retail dealer in such goods, wares or merchandise; but shall not mean or include any person selling meat, fish, fruit, agricultural implements, sewing machines or farm produce by retail. C.O., c. 58, s. 1.

License to pursue certain callings

2. No person shall follow the calling or pursue the business of an auctioneer, hawker or pedlar within the Territories without having first obtained a license therefor, which license shall be issued by such person as the Lieutenant Governor in Council may authorize. C.O., c. 58, s. 2.

(2) The person appointed by the Lieutenant Governor in Council to issue licenses shall have power to refuse any application for license, returning the fee, if in his opinion the applicant is not a fit and proper person to have such license, and also to hold any application pending inquiry regarding the applicant. 1913 (2nd Session), c. 2. s. 5.

Application for license

3. Every applicant for a hawker's or pedlar's license shall as part of his application for such license furnish a statement in writing containing a full description of the goods, wares and merchandise which he proposes to sell or offer for sale under such license. C.O., c. 58, s. 3.

Fees payable

4. On every application for a license under this Ordinance there shall be paid:

(*a*) For a hawker's or pedlar's license the sum of $25.00;
(*b*) For an auctioneer's license the sum of $25.00. 1913 (2nd Session), c. 2, s. 5.

Hawker's sales limited

5. No hawker or pedlar shall sell or offer for sale any goods, wares or merchandise other than those set forth in his application for license. C.O., c. 58, s. 5.

Duration of license

6. Every license issued under this Ordinance shall expire on the thirty-first day of December of the year in which it is issued. C.O., c. 58, s. 6.

7. Any person violating the provisions of this Ordinance shall be liable, on summary conviction thereof, to a fine not exceeding $100 and costs of prosecution. C.O., c. 58, s. 7. Penalty

8. *Repealed*, 1913 (2nd Session), c. 2, s. 5.

CHAPTER 59.

An Ordinance respecting Liens in favour of Mechanics and Others.

(C.O., c. 59.)

Chapter 21, 1906, substituted.

CHAPTER 60.

An Ordinance respecting Threshers' Liens.

Repealed, 1913 (2nd Session), c. 26, s. 12.

TITLE VIII.

COMPANIES AND KINDRED INSTITUTIONS.

CHAPTER 61.

An Ordinance respecting Companies.

(*See also an Act to amend The Company Law*, 1913, 2*nd Session*, *Cap.* 20).

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

PRELIMINARY.

Short title

1. This Ordinance may be cited for all purposes as "*The Companies Ordinance.*" 1901, c. 20, s. 1.

Territorial Secretary *ex officio* Registrar

2. This Ordinance shall be administered by the Territorial Secretary who shall be *ex officio* Registrar of Joint Stock Companies. 1901, c. 20, s. 2.

Interpretation

3. In the construction of this Ordinance and of the schedules thereto and of any rules that may be made thereunder if not inconsistent with the context or subject matter—

Company

1. "Company" shall mean a company incorporated under this Ordinance;

Court

2. "Court" shall mean the Supreme Court of the North-West Territories and shall include a judge thereof;

Judge

3. "Judge" shall mean a judge of the said court;

Registrar

4. "Registrar" shall mean "Registrar of Joint Stock Companies"; and the expression "registrar" or "Registrar of Joint Stock Companies" shall include the assistant or acting assistant Territorial Secretary and any person appointed by the Territorial Secretary as registrar of joint stock companies and his deputy and any one acting for him;

Prospectus

5. "Prospectus" means any prospectus, notice, circular, advertisement or other invitation offering to the public for subscription or purchase any shares, stock or debentures of a company. 1901, c. 20, s. 3.

Prohibition of partnerships exceeding certain number

4. No company, association or partnership consisting of more than twenty persons shall hereafter be formed for the purpose of carrying on any business to which the authority of the Legislative Assembly extends that has for its object the acquisition of gain by the company, association or partnership or by the individual members thereof unless it is registered as a company under this Ordinance or is formed in pursuance of some other Ordinance of the Legislative Assembly. 1901, c. 20, s. 4.

PART I.

CONSTITUTION, INCORPORATION AND REGISTRATION.

Memorandum of Association.

Who may incorporate company

5. Any three or more persons associated for any lawful purpose to which the authority of the legislature extends, except for the purpose of the construction or operation of railways or of telegraph lines or the business of insurance, except hail insurance, may by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company with or without limited liability: 1911-12, c. 4, s. 4.

Provided that nothing herein contained shall be deemed to confer upon the company any powers to which the jurisdiction of the legislature of the Province of Alberta does not extend, and particularly shall not be deemed to confer the right to issue promissory notes in the nature of bank notes; and all the powers in the said memorandum of association contained shall be exercisable subject to the provisions of the laws in force in Alberta and regulations made thereunder in respect of the matters therein referred to, and especially with respect to the construction and operation of railways, telegraph and telephone lines, the business of insurance, and any other business with respect to which special law and regulations may now be or may hereafter be put in force.

Mode of limiting liability

6. The liability of the members of a company formed under this Ordinance may according to the memorandum of association be limited either to the amount (if any) unpaid on the shares respectively held by them or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the company in the event of its being wound up. 1901, c. 20, s. 6.

Memorandum of association of a company limited by shares

7. Where a company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares (hereinafter referred to as a company limited by shares) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company with the addition of the word "limited" as the last word in such name;
(*b*) The objects for which the proposed company is to be established;
(*c*) The place in the Territories in which the registered office of the company is proposed to be situated;
(*d*) The time of the existence of the proposed company if it is intended to secure incorporation for a fixed period;
(*e*) A declaration that the liability of the members is limited;
(*f*) The amount of capital with which the company proposes to be registered divided into shares of a certain fixed amount;

subject to the following regulations:

(*a*) That no subscriber shall take less than one share;
(*b*) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes;

(*c*) That each subscriber of the memorandum of association shall be the *bona fide* holder in his own right of the share or shares for which he has subscribed in the memorandum of association. 1901, c. 20, s. 7.

Memorandum of association of a company limited by guarantee

8. Where a company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the company in the event of the same being wound up (hereinafter referred to as a company limited by guarantee) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company with the addition of the words "limited by guarantee" as the last words in such name;

(*b*) The objects for which the proposed company is to be established;

(*c*) The place in the Territories in which the registered office of the company is proposed to be situated;

(*d*) A declaration that each member undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member and of the costs, charges and expenses of winding up the company, and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding a specified amount. 1901, c. 20, s. 8.

Memorandum of association of an unlimited company

9. Where a company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited company) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company;

(*b*) The objects for which the proposed company is to be established;

(*c*) The place in the Territories in which the registered office of the company is proposed to be situated. 1901, c. 20, s. 9.

Signature and effect of memorandum of association

10. The memorandum of association shall be signed by each subscriber in the presence of and be attested by one witness at the least; and it shall when registered bind the company and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in the memorandum contained on the part of himself, his heirs, executors and administrators a covenant to observe all the conditions of such memorandum subject to the provisions of this Ordinance. 1901, c. 20, s. 10.

Articles of Association.

Regulations to be prescribed by articles of association

11. The memorandum of association may in the case of a company limited by shares and shall in the case of a company limited by guarantee or unlimited be accompanied when registered by articles of association signed by the subscribers to the

memorandum of association, and prescribing such regulations for the company as the subscribers to the memorandum of association deem expedient. The articles shall be expressed in separate paragraphs numbered arithmetically; they may adopt all or any of the provisions contained in the table marked A in the first schedule hereto; they shall in the case of a company (whether limited by guarantee or unlimited) that has a capital divided into shares state the amount of capital with which the company proposes to be registered; and in the case of a company (whether limited by guarantee or unlimited) that has not a capital divided into shares state the number of members with which the company proposes to be registered for the purpose of enabling the registrar to determine the fees payable on registration. In a company limited by guarantee or unlimited and having a capital divided into shares, each subscriber shall take one share at the least and shall write opposite to his name in the memorandum of association the number of shares he takes. 1901, c. 20, s. 11.

Application of table

12. In the case of a company limited by shares if the memorandum is not accompanied by articles of association or in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto the last mentioned regulations shall so far as the same are applicable be deemed to be the regulations of the company in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered. 1901, c. 20, s. 12.

Signature and effect of articles of association

13. The articles of association shall be signed by each subscriber in the presence of and be attested by one witness at least. When registered they shall bind the company and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in such articles contained a covenant on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Ordinance; and all moneys payable by any member of the company in pursuance of the conditions and regulations of the company or any of such conditions or regulations shall be deemed to be a debt due from such member to the company in the nature of a specialty debt. 1901, c. 10, s. 13.

Registration.

Registration

14. The memorandum of association and articles of association shall be delivered to the registrar who shall retain and register the same. 1901, c. 20, s. 14.

Fees

15. There shall be paid to the registrar by the company having a capital divided into shares in respect of the several matters mentioned in the table marked B in the first schedule hereto the several fees therein specified or such smaller fees as the Lieutenant Governor in Council may from time to time direct; and by a company not having a capital divided into shares in respect of the several matters mentioned in the table marked C in the first schedule hereto the several fees therein specified or

such smaller fees as the Lieutenant Governor in Council may from time to time direct.

(2) The fees received under this section shall form part of the general revenue fund of the Territories. 1901, c. 20, s. 15.

Certificate of incorporation

16. Upon the registration of the memorandum of association and of the articles of association in cases where articles of association are required by this Ordinance or by the desire of the parties to be registered the registrar shall certify under his hand and seal of office that the company is incorporated and in the case of a limited company that the company is limited and in the case of a mining company the liabilities of the members whereof is specially limited under section 63 hereof that the said company is so specially limited under said section 63; and such certificate shall be published in the official gazette.

(2) The incorporation of the company shall take effect from the date of incorporation mentioned in the certificate of incorporation. 1901, c. 20, s. 16.

Effect of registration

17. The subscribers of the memorandum of association together with such other persons as from time to time become members of the company shall thereupon be a body corporate under the name contained in the memorandum of association capable forthwith of exercising all the functions of an incorporated company and having perpetual succession and a common seal with power to hold lands but with such liability on the part of the members to contribute to the assets of the company in the event of the same being wound up as is hereinafter mentioned. 1901, c. 20, s. 17.

Registrar's certificate conclusive evidence

18. Any certificate of the incorporation of the company given by the registrar under his seal of office shall be conclusive evidence that all the requirements of the Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with.

(2) Any certificate of the incorporation of any company given by the registrar shall be received in evidence as if it were the original certificate; and any copy of or extract from any of the documents kept and registered at the office for the registration of joint stock companies if duly certified to be a true copy of extract under the hand of the registrar and his seal of office shall for all purposes be received in evidence as of equal validity with the original document. 1901, c. 20, s. 18.

Copies of memorandum, etc., to be given to members

19. A copy of the memorandum of association having annexed thereto the articles of association if any shall be forwarded to every member at his request on payment of the sum of $1 or such less sum as may be prescribed by the company for each copy; and if any company makes default in forwarding a copy of the memorandum of association and articles of association if any to a member in pursuance of this section the company so making default shall upon summary conviction for each offence be liable to a penalty not exceeding $5; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 19.

Penalty

Prohibition against identity of names

20. No company shall register under a name by which a subsisting company is lawfully carrying on business in the province, or so nearly resembling the same as in the opinion of the registrar to be calculated to deceive except in a case where such subsisting company is in the course of being dissolved and testifies its consent in such manner as the registrar requires, and if such company through inadvertence or otherwise is without such consent as aforesaid registered by a name identical with that by which a subsisting company is thus lawfully carrying on buisness or so nearly resembling the same as to be calculated to deceive such first mentioned company shall upon the direction of the registrar change its name. 1907, c. 5, s. 13.

Change of name

21. Any company with the sanction of a special resolution of the company and with the approval of the registrar may change its name. 1901, c. 20, s. 21.

Registration of new name

22. Upon the change of name of any company under the provisions of either of the two next preceding sections the registrar shall enter the new name on the register in place of the former name and shall issue a certificate of incorporation altered to meet the circumstances of the case. 1901, c. 20, s. 22.

Effect of alteration of name

23. No such alteration of name shall affect any rights or obligations of the company or render defective any legal proceedings instituted or to be instituted by or against the company; and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name. 1901, c. 20, s. 23.

Power of registrar to strike names of defunct companies off the register

24. Where the registrar has reasonable cause to believe that a company (whether registered before or after the passing of this Ordinance) is not carrying on business or in operation he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within one month of sending the letter receive an answer thereto he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter and stating that no answer thereto had been received by him and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation or does not within one month after sending the second letter receive any answer thereto the registrar may publish in the gazette and send to the company a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will unless cause is shown to the contrary be struck off the register and the company dissolved.

(4) At the expiration of the time mentioned in the notice the registrar may unless cause to the contrary is previously shown by such company strike the name of such company off the register

and shall publish notice thereof in the gazette; and on the publication in the gazette of such last mentioned notice the company whose name is so struck off shall be dissolved:

Provided that the liability if any of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved.

(5) If any company or member or creditor thereof feels aggrieved by the name of such company having been struck off the register in pursuance of this section the company or member or creditor may apply to the court; and the court if satisfied that the company was at the time of the striking off carrying on business or in operation and that it is just to do so may order the name of the company to be restored to the register; and thereupon the company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had never been struck off.

(6) A letter or notice authorized or required for the purpose of this section to be sent to a company may be sent by post addressed to the company at its registered office or if no office has been registered address to the care of some director or officer of the company or if there be no director or officer of the company whose name and address are known to the registrar the letter or notice in identical form may be sent to each of the persons who subscribed the memorandum of association addressed to him at the address mentioned in the memorandum.

(7) Where a company is being wound up and the registrar has reasonable cause to believe that no liquidator is acting or that the affairs of the company are fully wound up and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the registered address of the company and to the liquidator at his last known place of business the provisions of this section shall apply in like manner as if the registrar had not within one month after sending the second letter in subsection 2 of this section mentioned received any answer thereto. 1901, c. 20, s. 24.

Forfeiture of certificate of incorporation

24*a*. The certificate of incorporation of any company and any certificate amending or varying the same, may at any time be forfeited, revoked, and made void by an order of the Lieutenant Governor in Council and such forfeiture, revocation and making void may be on such conditions and subject to such provisions as to the Lieutenant Governor in Council may seem proper. 1911-12, c. 4, s. 4.

24*b*. Any person, partnership, organization, society, association, company or corporation, not being registered under this Ordinance or *The Foreign Companies Ordinance*, or duly incorporated under and by authority of any Ordinance of the North-West Territories, Act of the Province of Alberta or of the Parliament of Canada, assuming or using in Alberta a name which includes any of the words "loan," "mortgage," "trust," "trusts," "investment" or "guarantee" in combination with any of the words "corporation," "company," "association" or "society" or in com-

bination or connection with any similar collective term, or assuming or using in Alberta any similar name or any name or combination of names which is likely to deceive or mislead the public, and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, shall be guilty of an offence and liable on summary conviction to pay a penalty of $100 to be recovered before any court of competent jurisdiction by any person suing as well on his own behalf as on behalf of His Majesty, and half of such penalty shall belong to the general revenue fund of the province and the other half to the party suing for the same, unless the suit be brought, as it may be, by the Attorney General on behalf of His Majesty only, in which case the whole of the penalty shall belong to the province for the uses aforesaid. 1913 (1st Session), c. 9, s. 7.

PART II.

Distribution of Capital and Liability of Members and Officers of Companies.

Distribution of Capital.

Definition of member

25. The subscribers of the memorandum of association of any company under this Ordinance shall be deemed to have agreed to become members of the company whose memorandum they have subscribed; and upon the registration of the company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed to become a member of a company under this Ordinance and whose name is entered on the register of members shall be deemed to be a member of the company. 1901, c. 20, s. 25.

Nature of interest, etc., in company

26. The shares or other interest of any member in a company under this Ordinance shall be personal estate capable of being transferred in manner provided by the regulations of the company and shall not be of the nature of real estate; and each share shall in the case of a company having a capital divided into shares be distinguished by its appropriate number. 1901, c. 20, s. 26.

Register of members

27. Every company under this Ordinance shall cause to be kept in one or more books a register of its members; and there shall be entered therein the following particulars:

(*a*) The names and addresses and the occupations if any of the members of the company; with the addition in the case of a company having a capital divided into shares of a statement of the shares held by each member distinguishing each share by its number; and the amount paid or agreed to be considered as paid on the shares of each member;

(*b*) The date at which the name of any person was entered in the register as a member;

(*c*) The date at which any person ceased to be a member.

Penalty

(2) Any company acting in contravention of this section shall upon summary conviction be liable to a penalty not exceeding

$25 for every day during which its default in complying with the provisions of this section continues; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorize or permit such contravention shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 27.

Transfer by personal representative

28. Any transfer of the share or other interest of a deceased member of a company under this Ordinance made by his personal representative shall notwithstanding such personal representative may not himself be a member be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

(2) The personal representative of a deceased member shall represent the shares or stock of such deceased member at all meetings of the company and may vote as a shareholder in respect thereof. 1901, c. 20, s. 28.

Entry of transfer by transferrer

29. A company shall on the application of the transferrer of any shares or interest in the company enter in its register of members the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee. 1901, c. 20, s. 29.

Transfer to escape liability

30. Any transfer of shares in a company under this Ordinance made for the purpose of avoiding or escaping the further liability of a shareholder as such for a nominal or no consideration or to a person in the menial or domestic service of the transferrer shall be deemed to be a fraudulent transfer and need not be recognized by the company or by the court on the winding up of the company. 1901, c. 20, s. 30.

Annual list of shares

31. Every company having a capital divided into shares shall make once at least in every year a list in the form E in the second schedule of all persons who on the fourteenth day succeeding the day on which the ordinary general meeting or if there is more than one ordinary meeting in each year the first of such ordinary general meetings is held are members of the company; and such list shall state the names and so far as may be possible the addresses and occupations of all the members therein mentioned and the number of shares held by each of them and shall contain a summary specifying the following particulars:

1. The amount of capital of the company and the number of shares into which it is divided;
2. The number of shares taken from the commencement of the company up to the date of the summary;
3. The amount of calls made on each share;
4. The total amount of calls received;
5. The total amount of calls unpaid;
6. The total amount of shares forfeited;
7. The names, addresses and occupations of the persons who have ceased to be members since the last list was made and the number of shares formerly held by each of them;
8. The total amount of debt due from the company in respect of all mortgages and charges; and

9. The names and addresses of the persons who are the directors of the company at the date of the summary.

(2) The above list and summary shall be contained in a separate part of the register and shall be completed within seven days after such fourteenth day as is mentioned in this section and shall be signed by the manager or secretary of the company and a copy shall forthwith be forwarded to the registrar.

(2*a*) In the case of a company which offers its shares to the public for subscription the above summary shall also include a statement made up to such date as may be specified in the statement in the form of a balance sheet, audited by the company's auditors, containing a summary of its share capital, its liabilities, and its assets, and giving such particulars as will disclose the general nature of those liabilities and assets and the manner in which the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss. 1914, c. 10, s. 2.

(3) Any company making default in complying with the provisions of this section with respect to forwarding such list of members or summary as is hereinbefore mentioned to the registrar shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such default continues; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 31. Penalty

32. Every company under this Ordinance having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares or converted any portion of its capital into stock shall forthwith give notice to the registrar of such consolidation, division or conversion specifying the shares so consolidated, divided or converted and in default shall be subject to the penalty in the last section mentioned. 1901, c. 20, s. 32. Company to give notice of consolidation, etc., of shares

33. Where any company having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the registrar all the provisions of this Ordinance which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of the members hereby required to be kept by the company and the list of members to be forwarded to the registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required. 1901, c. 20, s. 33. Effect of conversion into stocks

34. No notice of any trust (expressed, implied or constructive) shall be entered on the register or be receivable by the registrar in the case of companies under this Ordinance. 1901, c. 20, s. 34. No trust to be entered on register

35. The company shall not be bound to see to the execution of any trust (whether expressed, implied or constructive) in respect of any share; and the receipt of the shareholder in whose name the same stands on the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such shares whether or not notice Company not bound to see to trusts, etc.

of the trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. 1901, c. 20, s. 35.

Evidence of title to shares, etc.

36. A certificate under the common seal of the company specifying any share or shares or stock held by any member of a company shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified. 1901, c. 20, s. 36.

Inspection of register

37. The register of members commencing from the date of the registration of the company shall be kept at the registered office of the company hereinafter mentioned. Except when closed as hereinafter mentioned it shall during the business hours subject to such reasonable restrictions as the company in general meeting may impose but so that no less than two hours in each day be appointed for inspection be open to the inspection of any member *gratis* and to the inspection of any other person on the payment of twenty-five cents or such less sum as the company may prescribe for each inspection and every such member or other person may require a copy of such register or of any part thereof or of such list or summary of members as is hereinbefore mentioned on payment of twenty-five cents for every hundred words required to be copied.

(2) If such inspection or copy is refused the company shall for each refusal upon summary conviction be liable to a penalty not exceeding $10 and a further penalty not exceeding $10 for every day during which such refusal continues; and every director, manager, secretary and officer of the company who shall knowingly authorize or permit such refusal shall upon summary conviction be liable to the like penalty; and in addition to the above penalty any judge of the Supreme Court sitting in chambers may upon summary order compel an immediate inspection of the register. 1901, c. 20, s. 37.

Closing of register

38. Any company under this Ordinance may upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situated close the register for members for any time or times not exceeding in the whole thirty days in each year. 1901, c. 20, s. 38.

Notice to registrar of increase of capital or members

39. Where a company has a capital divided into shares (whether shares may or may not have been converted into stock) notice of any increase in such capital beyond the registered capital and where a company has not a capital divided into shares notice of any increase in the number of members beyond the registered number shall be given to the registrar in the case of an increase of capital within fifteen days from the date of the passing of the resolution by which such increase has been authorized and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the registrar shall forthwith record the amount of such increase of capital or members.

(2) If such notice is not given within the period aforesaid the company in default shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such neglect to give notice continues; and every director, manager,

secretary and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 39.

Remedy for improper entry or omission in the register

40. If the name of any person is without sufficient cause entered in or omitted from the register of members of any company under this Ordinance or if default is made or unnecessary delay takes place in entering in the register the fact of any person having ceased to be a member of the company the person or member aggrieved or any member of the company or the company itself may by motion in the Supreme Court or by application to a judge thereof sitting in chambers apply for an order that the register may be rectified; and the court or judge may either refuse such application with or without costs to be paid by the applicant or may if satisfied of the justice of the case make an order for the rectification of the register and may direct the company to pay all costs of such motion or application and any damages the party aggrieved may have sustained.

(2) The court or judge may in any proceeding under this section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from the register, whether such question arises between two or more members or alleged members or between any members or alleged members and the company; and generally the court or judge may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register:

Provided that the court or judge may direct an issue to be tried in which any question of law may be raised and an appeal shall lie. 1901, c. 20, s. 40.

Notice to registrar of rectification of register

41. Whenever any order has been made rectifying the register in the case of a company hereby required to send a list of its members to the registrar the court shall by its order direct that due notice of such rectification be given to the registrar. 1901, c. 20, s. 41.

Register to be evidence

42. The register of members shall be *prima facie* evidence of any matters by this Ordinance directed or authorized to be inserted therein. 1901, c. 20, s. 42.

Liability of Members.

43. *Repealed.* 1907, c. 5, s. 13.

Shareholder's liability on unpaid portion

44. Except as hereinafter otherwise provided each shareholder until the whole amount of his shares, stock or other interest has been paid up shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution but not beyond the amount so unpaid of his shares, stock or other interest shall be the amount so recoverable with costs against such shareholder.

(2) Any shareholder may plead by way of defence in whole or in part any set-off which he could set up against the company except a claim for unpaid dividends or a salary or allowance as a president or a director of the company.

(3) The shareholders of the company shall not as such be held responsible for any act, default or liability whatsoever of the company or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever related to or connected with the company beyond the unpaid amount of their respective shares in the capital stock thereof. 1901, c. 20, s. 44.

Trustees, etc.

45. No person holding shares, stock or other interest in the company as executor, administrator, guardian, or trustee shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator or intestate of the minor, ward or other person interested in the trust fund would be if living and competent to act and holding such shares, stock or other interest in his own name. 1901, c. 20, s. 45.

Nonpersonal liability of mortgagees or pledgees of shares.

46. No person holding shares, stock or other interest as collateral security shall be personally subject to liability as a shareholder; but the person pledging such shares, stock or other interest as such collateral security shall be considered as holding the same and shall be liable as a shareholder in respect thereof. 1901, c. 20, s. 46.

Liability, etc., of shareholders in case of winding up

47. In the event of a company formed under this Ordinance or under any other Ordinance of the Territories being wound up every present and past member of such company shall be liable to contribute to the assets of the company to an amount sufficient for payment of the debts and liabilities of the company and the costs, charges and expenses of the winding up and for payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves with the qualifications following, that is to say:

(*a*) No past member shall be liable to contribute to the assets of the company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding up;

(*b*) No past member shall be liable to contribute in respect of any debt or liability of the company contracted after the time at which he ceased to be a member;

(*c*) No past member shall be liable to contribute to the assets of the company unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance;

(*d*) In the case of a company limited by shares no contribution shall be required from any member exceeding the amount if any unpaid on the shares in respect of which he is liable as a present or past member;

(*e*) In the case of a company limited by guarantee no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association;

(*f*) Nothing in this Ordinance contained shall invalidate any provision contained in any contract whereby the liability of individual members upon any such contract is restricted or whereby the funds of the company are alone made liable in respect of such contract;

(*g*) No sum due to any member of a company in his character of a member by way of dividends, profits or otherwise shall be deemed to be a debt of the company payable to such member in a case of competition between himself and any other creditor not being a member of the company, but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories among themselves. 1901, c. 20, s. 47.

Liability of Directors.

Company may have directors with unlimited liabilities

48. Where a company is formed as a limited company the liability of the directors or managers of such company or the managing director may if so provided by the memorandum of association or by resolution as hereinafter provided be unlimited. 1901, c. 20, s. 48.

Liability of directors past and present where liability is unlimited

49. The following are the contributions to be required in the event of the winding up of a limited company from any director or manager whose liability is in pursuance of this Ordinance unlimited:

(*a*) Subject to the provisions hereinafter contained any such director or manager whether past or present shall in addition to his liability, if any, to contribute as an ordinary member be liable to contribute as if he were at the date of his commencement of the winding up a member of an unlimited company;

(*b*) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding up shall exceed the amount if any which he is liable to contribute as an ordinary member of the company;

(*c*) No contribution required from any past director or manager in respect of any debt or liability of the company contracted after the time at which he ceased to hold such office shall exceed the amount if any which he is liable to contribute as an ordinary member of the company;

(*d*) Subject to the provisions contained in the regulations of the company no contribution required from any director or manager shall exceed the amount if any which he is liable to contribute as an ordinary member unless the court deems it necessary to require such contribution in order to satisfy the debts and liabilities of the company and the costs, charges and expenses of the winding up. 1901, c. 20, s. 49.

Director with unlimited liability may have set-off

50. In the event of the winding up of any limited company the court if it thinks fit may allow to any director or manager of such company whose liability is unlimited by way of set-off

any moneys due to him from the company other than dividends or profits. 1901, c. 20, s. 50.

Notice to be given to director on his election that his liability will be unlimited

51. In any limited company in which in pursuance of this Ordinance the liability of a director or manager is unlimited the directors or managers of the company if any and the member who proposes any person for election or appointment to such office shall add to such proposal a statement that the liability of a person holding such office will be unlimited; and the promoters, directors, manager and secretary if any of such company or one of them shall before such person accepts such office or acts therein give him notice in writing that his liability will be unlimited.

(2) If any director, manager or proposer make default in adding such statement or if any promoter, director, manager or secretary make default in giving such notice he shall be liable to a penalty not exceeding $500 and he shall also be liable for any damage which the person so elected or appointed may sustain from such default but the liability of the person elected or appointed shall not be affected by such default. 1901, c. 20, s. 51.

Dividends not to be issued in insolvency of company

52. The directors of the company shall not declare or pay any dividend when the company is insolvent or any dividend the payment of which renders the company insolvent or diminishes the capital thereof; but if any director present when such dividend is declared forthwith or if any director then absent within twenty-four hours after he has become aware thereof and able so to do enters on the minutes of the board of directors his protest against the same and within eight days thereafter causes such protest to be published in at least one newspaper published at or as near as may be possible to the head office or chief place of business of the company such director may thereby and not otherwise exonerate himself from liability. 1901, c. 20, s. 52.

Prohibits loan to shareholders

53. No loan shall be made by the company to any shareholder; and if such loan is made all directors and other officers of the company making the same and in anywise assenting thereto shall be jointly and severally liable to the company for the amount thereof and also to the third parties to the extent of such loan with legal interest for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof; but this section shall not apply to a building society. 1901, c. 20, s. 53.

Liability of directors for wages.

54. The directors of a company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof for all debts not exceeding six months' wages due for services performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor unless the company is sued therefor within one year after the debt becomes due nor unless such director is sued therefor within one year from the time when he ceased to be such director nor unless an execution against the company is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 1901, c. 20, s. 54.

Prospectus.

55. Every prospectus issued by or on behalf of any company or intended company shall state the date on which it was issued; and that date shall be taken for all purposes as the date of publication. Publication of prospectus

(2) A copy of every such prospectus shall be signed by every person who is named therein as a director or proposed director of the company or by his agent duly authorized in writing; and shall, together with the said written authorization, verified by affidavit, be filed with the registrar on or before the date of its publication. 1914, c. 10, s. 3.

(3) The registrar shall not register any prospectus unless it is so dated and signed; and no prospectus shall be issued until so filed for registration; and every prospectus shall state on the face of it that it has been so filed.

(4) If default is made in complying with the requirements of this section every officer and agent of the company who is party to the issue of the prospectus shall upon summary conviction be liable to a fine not exceeding $25 for every day during which the default continues. 1901, c. 20, s. 55.

56. Every prospectus of a company must state— Contents of prospectus

(*a*) The contents of the memorandum of association with the names, occupations and addresses of the signatories and the number of shares subscribed by them respectively;

(*b*) The number of shares if any fixed by the articles of association as the qualification of a director;

(*c*) The names, occupations and addresses of the directors or proposed directors and the number of shares held or agreed to be taken by them respectively and whether any such share is held or agreed to be taken by any of them otherwise than in his own right as beneficial owner;

(*d*) The minimum subscription on which the directors may proceed to allotment, and the amount payable on application and allotment on each share, and in the case of a second or subsequent offer of shares, the price and number of shares offered for subscription during the preceding two years together with the number of shares allotted and the amount actually paid on such allotment during the said period. 1914, c. 10, s. 4.

(*e*) The number and amount of shares and debentures issued or agreed to be issued as fully or partly paid up otherwise than in cash; and in the latter case the extent to which they are so paid up; and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued;

(*f*) The names and addresses of the vendors of any property purchased or acquired by the company or proposed so to be purchased or acquired which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the

date of publication of the prospectus and where there is more than one vendor or the company is a sub-purchaser the amount payable in cash, shares or debentures to each vendor;

(*g*) The amount if any payable as purchase money in cash, shares or debentures of any such property as aforesaid specifying the amount payable for good will if any such amount is separately payable;

(*h*) The amount if any payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in the company or the rate of any commission;

(*i*) The amount or estimated amount of preliminary expenses;

(*j*) The amount intended to be paid to any promoter and the consideration for which it is to be paid;

(*k*) The amount intended to be reserved for working capital;

(*l*) The dates, parties and short purport or effect of every material contract and every material fact known to any director or promoter of the company who is a party to the issue of the prospectus and a reasonable time and place at which any material contract or a copy thereof may be inspected:

Provided that this requirement shall not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company or to any contract entered into more than five years before the date of publication of the prospectus;

(*m*) The names and addresses of the auditors if any of the company;

(*n*) Full particulars of the nature and extent of the interest if any of every director in the promotion of or in the property proposed to be acquired by the company with a statement of all sums paid or agreed to be paid to him in cash or shares by any person either to qualify him as a director or otherwise for services rendered by him in connection with the formation of the company.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract (absolute or conditional) for the sale or purchase of any of the property to be acquired by the company in any case where—

(*a*) The purchase money is not fully paid at the date of publication of the prospectus; or

(*b*) The purchase money is to be paid or satisfied (wholly or in part) out of the proceeds of the issue, offered by subscription by the prospectus; or

(*c*) The contract depends for its fulfilment on such issue.

(3) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe for further shares or debentures; but subject as aforesaid this section shall apply to any prospectus whether issued or with reference to the formation of a company or subsequently:

Provided that—

(*a*) The requirements as to the memorandum of association; and the qualification, remuneration and interest of directors; the names, descriptions and addresses of directors or proposed directors; and the amount or estimated amount of preliminary expenses; shall not

apply in the case of a prospectus published more than one year after the date at which the company is entitled to commence business; and

(*b*) In the case of a prospectus published more than one year after the date at which the company is entitled to commence business the obligation to disclose all material contracts shall be limited to a period of two years immediately preceding the publication of the prospectus.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement it shall not be necessary to specify the contents of the memorandum of association or the signatories thereto and the number of shares subscribed to by them. 1901, c. 20, s. 56.

Liability of statement in prospectus

57. Where a prospectus or notice invites persons to subscribe for shares in or debentures or debenture stock of a company every person who is a director of a company at the time of the issue of the prospectus or notice and every person who having authorized such naming of him is named in the prospectus or notice as a director of the company or as having agreed to become a director of the company either immediately or after an interval of time and every promoter of the company and every person who has authorized the issue of the prospectus or notice shall be liable to pay compensation to all persons who shall subscribe for any shares, debentures or debenture stock on the faith of such prospectus or notice for the loss or damage they may have sustained by reason of any untrue statement in the prospectus or notice or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith unless it is proved—

(*a*) With respect to every such untrue statement not purporting to be made on the authority of an expert or of a public official document or statement that he had reasonable ground to believe and did up to the time of the allotment of the stock, debentures or debenture stock (as the case may be) believe that the statement was true;

(*b*) With respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy or an extract from a report or valuation by an engineer, valuer, accountant or other expert that it fairly represented the statement made by such engineer, valuer, accountant or other expert or was a correct and fair copy of or extract from the report or valuation:

Provided always that notwithstanding that such untrue statement fairly represented the statement made by such engineer, valuer, accountant or other expert or was a correct and fair copy of an extract from the report or valuation such director, person named, promoter or other person who authorized the issue of the prospectus or notice as aforesaid shall be liable to pay compensation

as aforesaid if it be proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it;

(*c*) With respect to every such untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document that it was a correct and fair representation of such statement or copy of or extract from such document or unless it is proved that having consented to become a director of the company he withdrew his consent before the issue of the prospectus or notice and that the prospectus or notice was issued without his authority or consent or that the prospectus was issued without his knowledge or consent and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued without his knowledge or consent or that after the issue of such prospectus or notice and before allotment thereunder he on becoming aware of any untrue statement therein withdrew his consent thereto and caused reasonable public notice of such withdrawal and of the reason therefor to be given.

(2) A promoter in this section means a promoter who was a party to the preparation of the prospectus or notice or of the portion thereof containing such untrue statement but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company.

(3) Where any company existing at the passing of this Ordinance which has issued shares or debentures shall be desirous of obtaining further capital by subscriptions for shares or debentures and for that purpose shall issue a prospectus or notice no director of such company shall be liable in respect of any statement therein unless he shall have authorized the issue of such prospectus or notice or have adopted or ratified the same.

(4) In this section the word "expert" includes any person whose profession gives authority to a statement made by him. 1901, c. 20, s. 57.

57*a*. 1905, c. 5, s. 1 (Part II.) *Repealed*. 1914, c. 10, s. 5.

Indemnity where name of person has been improperly inserted as a director

58. Where any such prospectus or notice as aforesaid contains the name of a person as director of the company or as having agreed to become a director thereof and such person has not consented to become a director or has withdrawn his consent before the issue of such prospectus or notice and has not authorized or consented to the issue thereof the directors of the company except any without whose knowledge or consent the prospectus or notice was issued and any other person who authorized the issue of such prospectus or notice shall be liable to indemnify the person named as a director of the company or as having agreed to become a director thereof as aforesaid against all damages, costs, charges and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or notice or in defending himself against any action or legal proceedings brought against him in respect thereof. 1901, c. 20, s. 58.

Contributions from co-directors, etc.

59. Every person who by reason of his being a director or named as a director or as having agreed to become a director or of his having authorized the issue of the prospectus or notice has become liable to make any payment under the provisions of this Ordinance shall be entitled to recover contribution as in cases of contract from any other person who if sued separately would have been liable to make the same payment. 1901, c. 20, s. 59.

Restrictions on appointment of advertisement of director

60. A person shall not be capable of being appointed director of a company by the articles of association and shall not be named as a director or proposed director of a company in any prospectus issued by or in behalf of the company unless before the registration of the articles or the publication of the prospectus (as the case may be) he has by himself or by his agent authorized in writing:

(*a*) Signed and filed with the registrar a consent in writing to act as such director; and

(*b*) Either signed the memorandum of association for a number of shares not less than his qualification if any or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares if any.

(2) On the application for registration of the memorandum and articles of association of a company the applicant shall deliver to the registrar a list of the persons who have consented to be directors of the company and if this list contains the name of any person who has not so consented the applicant shall be liable on summary conviction to a fine not exceeding $200.

(3) Provided that this section shall not apply to a company which does not issue any invitation to the public to subscribe for its shares or to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business. 1901, c. 20, s. 60.

Circulating misleading documents

61. Where any advertisement, letter head, postal card, account or document issued, published or circulated by any corporation, association or company or any officer, agent or employee of any such corporation, association or company purports to state the subscribed capital of the company then the capital actually and in good faith subscribed and no more shall be so stated; and any such corporation, association, company, officer, agent or employee who causes to be inserted an advertisement in any newspaper or who publishes, issues or circulates or causes to be published, issued or circulated any advertisement, letter head, post card, account or document which states as the subscribed capital of such company any larger sum than the amount of such subscribed capital so actually and in good faith subscribed as aforesaid or which contains any untrue or false statement as to the incorporation, control, supervision, management or financial standing of such corporation, association or company and which statement is intended or calculated or likely to mislead or deceive any person dealing or having any business or transaction with said corporation, association or company or with any officer, agent or employee of the association, corporation or company shall upon summary conviction be liable to a penalty

Penalty

not exceeding $200 and costs and in default of payment the offender being an officer, agent or employee as aforesaid shall be imprisoned for a term not exceeding three months and not less than one month; and on a second or any subsequent conviction he may be imprisoned for a term not exceeding twelve months and not less than three months. 1901, c. 20, s. 61.

PART III.

Powers, Management and Administration.

Preference Shares.

Preference shares

62. The directors of any company incorporated or re-incorporated under this Ordinance may with the sanction of a special resolution of the company previously given in general meeting create and issue any part of the capital as preference shares giving the same such preference and priority as respects dividends and otherwise over ordinary shares as may be declared by the special resolution.

(2) The special resolution may provide that the holders of such preference shares shall have the right to select a certain stated proportion of the board of directors or may give them such other control over the affairs of the company as may be considered expedient.

(3) Holders of such preference shares shall be shareholders within the meaning of this Ordinance and shall in all respects possess the rights and be subject to the liabilities of shareholders within the meaning of this Ordinance:

Provided however that in respect of dividends and otherwise they shall as against the original or ordinary shareholders be entitled to the preference given by any special resolution as aforesaid.

(4) Nothing in this section shall affect or impair the rights of creditors of any company. 1901, c. 20, s. 62.

Issue of Shares without Personal Liability by Mining Companies

Mining companies with specially limited liability on shares

63. The memorandum of association of a company incorporated or re-incorporated under this Ordinance the objects whereof are restricted to acquiring, managing, developing, working and selling mines, mineral claims and mining properties and petroleum claims and lands and natural gas claims and lands and the winning, getting, treating, refining and marketing of mineral therefrom may contain a provision that no liability beyond the amount actually paid upon shares and stocks in such company by the subscribers thereto or holders thereof shall attach to such subscriber or holder; and the certificate of incorporation issue under section 16 of this Ordinance shall state that the company is specially limited under this section. 1901, c. 20, s. 63; 1914, c. 10, s. 10.

(2) This amendment (1914, c. 10, s. 10 (1)) shall apply to all companies heretofore incorporated under section 63 of *The Companies Ordinance.* 1914, c. 10, s. 10 (2).

63*a*. Every company, the objects whereof are restricted as aforesaid, shall be deemed to have the following, but, except as in this Ordinance otherwise expressed, no greater powers, that is to say: Powers of a mining company

1. To obtain by purchase, lease, hire, discovery, location, or otherwise, and hold within the province, mines, mineral claims, mineral leases, prospects, mining lands and mining rights of every description, and to work, develop, operate and turn the same to account and to sell or otherwise dispose of the same or any of them, or any interest therein;

2. To dig for, raise, crush, wash, smelt, assay, analyze, reduce, amalgamate and otherwise treat gold, silver, copper, lead, ores or deposits and other minerals and metallic substances and compounds of all kinds, whether belonging to the company or not and to render the same merchantable and to buy, sell and deal in the same or any of them;

3. To carry on the business of a mining, smelting, milling and refining company in all or any of its branches ;

4. To acquire by purchase, lease, hire, exchange or otherwise, such timber lands or leases, timber claims, licenses to cut timber, surface rights and rights of way, water rights and privileges, mills, factories, furnaces for smelting and treating ores and refining metals, buildings, machinery, plant or other real or personal property as may be necessary for or conducive to the proper carrying out of any of the objects of the company;

5. To construct, maintain, alter, make, work and operate on the property of the company, or on property controlled by the company, any canals, trails, roads, ways, tramways, bridges and reservoirs, dams, flumes, race and other ways, watercourses, aqueducts, wells, wharves, piers, furnaces, sawmills, crushing works, smelting works and concentrating works, hydraulic works, electrical works and appliances, warehouses, buildings, machinery, plant, stores and other works and conveniences which may seem conducive to any of the objects of the company, and with the consent of the shareholders in general meeting to contribute to, subsidize or otherwise aid or take part in any such operation though constructed and maintained by any other company or persons outside of the property of the company, and to buy, sell, manufacture and deal in all kinds of goods, stores, implements, provisions, chattels and effects required by the company or its workmen and servants;

6. To build, acquire, own, charter, navigate and use steam and other vessels for the purpose of the company;

7. To take, acquire, and hold as the consideration for ores, metals or minerals sold or otherwise disposed of, or for goods supplied or for work done by contract or otherwise, shares, debentures, bonds or other securities of or in any other company, the objects of which are restricted as herein aforesaid and to sell or otherwise dispose of the same;

8. To enter into any arrangement for sharing profits, union of interests or co-operation with any other person or company carrying on, or about to carry on, any business or transaction which a company specially limited under this section is authorized to carry on;

9. To purchase or otherwise acquire and undertake all or any of the assets, business, property, privileges, contracts, rights,

obligations and liabilities of any person or company carrying on any part of the business which a company specially limited under this section is authorized to carry on, or possessed of property suitable for the purposes thereof;

10. To borrow or raise money for the purposes of the company but so that the amount so borrowed or raised shall not, without the sanction of a general meeting of the company, exceed one-quarter of the amount of the paid-up capital for the time being, and for the purpose of securing such money and interest or for any other purpose to mortgage or charge the undertaking or all or any part of the property of the company, present or after acquired, and to create, issue, make, draw, accept and negotiate, perpetual or redeemable debentures or debenture stock, promissory notes, bills of exchange, bills of lading, warrants, obligations and other negotiable and transferable instruments; provided, however, that the restriction in this subsection contained as to borrowing without the sanction of a general meeting shall not be deemed to be imperative, and shall in no wise limit, control or affect any power of borrowing vested in the board of directors of the company or of the company under the memorandum of association, or the articles of association, or by by-laws of the company;

11. To distribute any of the property of the company among the members in specie;

12. To sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with the undertaking of the whole or any part of the property and rights of the company, with power to accept as the consideration, any shares, stocks or obligations of any company; provided, however, that in case of a sale for shares in a company other than a nonpersonal liability company, such shares shall be fully paid up; to do all such other things as are incidental or conducive to the attainment of the foregoing objects. 1911-12, c. 4, s. 4; 1914, c. 10, s. 6.

Shares to be specially marked

64. Where a certificate of incorporation incorporating any such company or a license to any foreign company has been issued containing the provisions mentioned in section 63 of this Ordinance every certificate of shares or stock issued by the company shall bear upon the face thereof distinctly written or printed in red ink after the name of the company the words "Issued under section 63 respecting Mining Companies of *The Companies Ordinance*," and where such shares or stock are issued subject to further assessment the word "Assessable" or if not subject to further assessment the word "Nonassessable" as the case may be. 1901, c. 20, s. 64.

Charter, prospectuses and other documents of such company to be specially marked

65. Every mining company the memorandum of association of which contains the said provision shall have written or printed on its charter, prospectuses, stock certificates, bonds, contracts, agreements, notices, advertisements and other official publications and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all bills of parcels, invoices, receipts, and letter heads of the company immediately after or under the name of such company and shall have engraved upon its seal the words "Nonpersonal Liability"; and every such company which refuses or knowingly neglects to comply

with this section shall incur a penalty of $20 for every day during which such name is not so kept written or printed, recoverable upon summary conviction; and every director, manager, secretary and officer of the company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty. 1901, c. 20, s. 65.

Enforcement of payment of assessments on such shares

66. In the event of any call or calls on assessable shares in a company so incorporated remaining unpaid by the subscriber thereto or holder thereof for a period of sixty days after the notice and demand of payment such shares may be declared to be in default; and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of such sale in some newspaper published or circulated in the city or district where the principal office of the company is situated for a period of one month; and such notice shall contain the number of the certificate or certificates of such shares and the number of shares, the amount of the assessment due and unpaid and the time and place of sale; and in addition to the publication of the notice aforesaid notice shall be personally served upon such subscriber or holder by registered letter mailed to his last known address; and if the subscriber or holder of such shares shall fail to pay the amount due upon such share with interest upon the same and cost of advertising before the time fixed for such sale the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment together with interest and cost of advertising:

Provided that if the price of the share so sold exceeds the amount due with interest and cost thereon the excess shall be paid to the defaulting subscriber or holder. 1901, c. 20, s. 66.

Liability of shareholder on such shares

67. No shareholder or subscriber for shares in any company so incorporated shall be personally liable for nonpayment of any calls made upon his shares beyond the forfeiture and sale in the event of the nonpayment of such calls of the amount if any already paid on the shares held or subscribed for; nor shall such shareholder or subscriber be personally liable for any debt contracted by the company or for any sum payable by the company beyond the amount if any paid by him upon such share. 1901, c. 20, s. 67.

Existing companies

68. Whenever any shares have been heretofore issued by any company duly incorporated under any Ordinance as fully paid up shares either at a discount or in payment for any mine, mineral claim or mining property purchased or acquired by such company or for the acquiring whereof such company has been incorporated all such shares shall except as to any debts contracted by the company before the passing of this Ordinance in regard to which the liability on such shares shall be the same as if this Ordinance had not been passed be deemed and held to be fully paid up and the holder thereof shall be subject to no personal liability thereon in the same manner as if the memorandum of association of the company had contained the provision aforesaid. 1901, c. 20, s. 68.

Adjustment of Calls and Dividends.

Adjustment of calls and dividends

69. Nothing contained in this Ordinance shall be deemed to prevent any company incorporated under this Ordinance if authorized by its regulations as originally framed or as altered by special resolution from doing any one or more of the following things, namely:

1. Making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the time of payment of such calls;

2. Accepting from any member of the company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made;

3. Paying dividend in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others. 1901, c. 20, s. 69.

Subdivision of Shares.

Subdivision of shares

70. Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorized so to do by its regulations as originally framed or as altered by special resolution as by subdivision of its existing shares or any of them to divide its capital or any part thereof into shares of smaller amount than is fixed by its memorandum of association:

Provided that in the subdivision of existing shares the proportion between the amount that is paid and the amount if any which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived. 1901, c. 20, s. 70.

Statement of shares to accord with special resolution

71. The statement of the number and amount of the shares into which the capital of the company is divided contained in every copy of the memorandum of association or any other official document issued after the passing of any special resolution shall be in accordance with such special resolution; and any company which makes default in complying with the provisions of this section shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director, manager, secretary and officer of the company who knowingly or wilfully authorizes or permits any such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 71.

Share Warrants.

Warrant of limited shares fully paid up or of stock may be issued to bearer

72. In case of a company limited by shares the company if authorized to do so by its regulations as originally framed or as altered by special resolution and subject to the provisions of such regulations may with respect to any share which is fully paid up or with respect to stock issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares of stock therein specified; and may provide by coupons or

otherwise for the payment of the future dividends on the share or shares or stock included in such warrant hereinafter referred to as a share warrant. 1901, c. 20, s. 72.

Effects of and mode of transfer of share warrant

73. A share warrant shall entitle the bearer of such warrant to the shares or stock specified in it; and such shares or stock may be transferred by the delivery of the share warrant. 1901, c. 20, s. 73.

Re-registration of bearer of share warrant

74. The bearer of a share warrant shall subject to the regulations of the company be entitled on surrendering such warrant for cancellation to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of members the name of any bearer of a share warrant in respect of the shares or stock specified therein without the share warrant being surrendered and cancelled. 1901, c. 20, s. 74.

Rights of bearer of share warrant as member of company

75. The bearer of a share warrant may if the regulations of the company so provide be deemed to be a member of the company within the meaning of this Ordinance either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the company in cases where such qualification is prescribed by the regulations of the company. 1901, c. 20, s. 75.

Entries in register in case of share warrant

76. On the issue of a share warrant in respect of any share or stock the company shall strike out of its register of members the name of the member then entered therein as holding such share or stock as if he had ceased to be a member; and shall enter in the register the following particulars:

(*a*) The fact of the issue of the warrant;

(*b*) A statement of the shares or stock included in the warrant distinguishing each share by its number;

(*c*) The date of the issue of the warrant;

and until the warrant is surrendered the above particulars shall be deemed to be the particulars which are required by the twenty-seventh section of this Ordinance to be entered in the register of members of a company; and on the surrender of a warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a member. 1901, c. 20, s. 76.

Particulars of share warrant in annual summary

77. After the issue by the company of a share warrant the annual summary required by the thirty-first section of this Ordinance shall contain the following particulars:

(*a*) The total amount of shares or stock for which share warrants are outstanding at the date of the summary;

(*b*) The total amount of share warrants which have been issued and surrendered respectively since the last summary was made; and

(*c*) The number of shares or amount of stock comprised in each warrant. 1901, c. 20, s. 77.

Reduction of Capital and Shares.

Power to reduce capital

78. Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorized to do so by its regulations as originally framed or as altered by special resolution as to reduce its capital; but no such resolution for reducing the capital of any company shall come into operation until an order of the court is registered by the registrar as is hereinafter mentioned.

(2) The power to reduce capital conferred by this section shall include paid up capital; and a power to cancel any lost capital or any capital unrepresented by available assets or to pay off any capital which may be in excess of the wants of the company; and paid up capital may be reduced either with or without extinguishing or reducing the liability if any remaining on the shares of the company; and to the extent to which such liability is not extinguished or reduced it shall be deemed to be preserved. 1901, c. 20, s. 78.

After such reduction "and reduced" added to name

79. Every company shall after the date of the passing of any special resolution for reducing its capital add to its name until such date as the court may fix the words "and reduced" as the last words in its name; and those words shall until such date be deemed to be part of the name of the company. 1901, c. 20, s. 79.

Company to apply for order confirming reduction

80. A company which has passed a special resolution for reducing its capital may apply to the court by petition for an order confirming the reduction; and on the hearing of the petition the court if satisfied that with respect to every creditor of the company who under the provisions of this Ordinance is entitled to object to the reduction either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured as hereinafter provided may make an order confirming the reduction on such terms and subject to such conditions as may seem fit.

(2) Where the reduction of the capital of a company does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital:

(*a*) The creditors of the company shall not unless the court otherwise direct be entitled to object or required to consent to the reduction; and

(*b*) It shall not be necessary before the presentation of the petition for confirming the reduction to add and the court may if it thinks it expedient so to do dispense altogether with the addition of the words "and reduced."

(3) In any case that the court thinks fit so to do it may require the company to publish in such manner as the court may direct the reasons for the reduction of its capital or such other information in regard to the reduction of its capital as the court may think expedient with a view to giving proper information to the public in relation to the reduction of its capital by a company and if the court thinks fit the causes which led to such reduction. 1901, c. 20, s. 80.

Right of creditors to object to reduction

81. Where a company proposes to reduce its capital every creditor of the company who at the date fixed by the court is entitled to any debt or claim which if that date were the commencement of the winding up of the company would be admissible in proof against the company shall be entitled to object to the proposed reduction and to be entered in the list of creditors who are so entitled to object.

(2) The court shall settle a list of such creditors; and for that purpose shall ascertain as far as possible without requiring an application from any creditor the names of such creditors and the nature and amount of their debts or claims; and may publish notices fixing a certain day or days within which creditors of the company who are not entered on the list are to claim to be so entered or to be excluded from the right of objecting to the proposed reduction. 1901, c. 20, s. 81.

Court may dispense with consent of creditors on security given

82. Where a creditor whose name is entered on the list of creditors and whose debt or claim is not discharged or determined does not consent to the proposed reduction the court may if it thinks fit dispense with such consent on the company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the court may direct a sum of such amount as is hereinafter mentioned that is to say:

1. If the full amount of the debt or claim of the creditor is admitted by the company or though not admitted is such as the company is willing to set apart and appropriate then the full amount of the debt or claim shall be set apart and appropriated;

2. If the full amount of the debt or claim is not admitted by the company and is not such as the company is willing to set apart and appropriate or if the amount is contingent or not ascertained then the court may if it thinks fit inquire into and adjudicate upon the validity of such debt or claim and the amount for which the company may be liable in respect thereof in the same manner as if the company were being wound up by the court; and the amount fixed by the court on such inquiry and adjudication shall be set apart and appropriated. 1901, c. 20, s. 82.

Order and minute to be registered

83. The registrar upon the production to him of an order of the court confirming the reduction of the capital of a company and the delivery to him of a copy of the order and of a minute approved by the court showing with respect to the capital of the company as altered by the order the amount of such capital the number of shares into which it is to be divided the amount of each share and the amount if any at the date of the registration of the minute proposed to be deemed to have been paid up on each share shall register the order and minute; and on the registration the special resolution confirmed by the order so registered shall take effect.

(2) Notice of such registration shall be published in such manner as the court may direct.

(3) The registrar shall certify under his hand the registration of the order and minute; and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the reduction of capital have been complied with and that the capital of the company is as stated in the minute. 1901, c. 20, s. 83.

Minute to form part of memorandum of association

84. The minute when registered shall be deemed to be substituted for the corresponding part in the memorandum of association of the company; and shall be of the same validity and subject to the same alterations as if it had been originally contained in the memorandum of association; and subject as in this Ordinance mentioned no member of the company whether past or present shall be liable in respect of any share to any call or contribution exceeding in amount the difference if any between the amount which has been paid on such share and the amount of the share as fixed by the minute. 1901, c. 20, s. 84.

Saving right of creditors ignorant of proceedings

85. If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a company under this Ordinance is in consequence of his ignorance of the proceedings taken with a view to such reduction or of their nature and effect with respect to his claim not entered on the list of creditors and after such reduction the company is unable within the space of three weeks after demand made to pay to the creditor the amount of such debt or claim every person who was a member of the company at the date of the registration of the order and minute relating to the reduction of the capital of the company shall be liable to contribute to the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day prior to such registration; and on the company being wound up the court on the application of such creditor and on proof that he was ignorant of the proceedings taken with a view to the reduction or of their nature and effect with respect to his claim may if he thinks fit settle a list of such contributories accordingly and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding up; but the provisions of this section shall not affect the rights of the contributories of the company among themselves. 1901, c. 20, s. 85.

Registered minute to be embodied in memorandum of association

86. A minute when registered shall be embodied in every copy of the memorandum of association issued after its registration; and if any company makes default in complying with the provisions of this section it shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20. s. 86.

Concealing name of creditor entitled to object

87. If any director, manager or officer of a company wilfully conceals the name of any creditor of the company who is entitled to object to the proposed reduction or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the company or if any director or manager of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid every such director, manager, or officer shall for every such offence upon summary conviction be liable to a penalty not exceeding $500. 1901, c. 20, s. 87.

Reduction by cancelling of unused shares

88. Any company limited by shares may so far modify the conditions contained in its memorandum of association if authorized so to do by its regulations as originally framed or as

altered by special resolution as to reduce its capital by cancelling any shares which at the date of the passing of such resolution have not been taken or agreed to be taken by any person; and the provisions of the ten next preceding sections of this Ordinance shall not apply to any reduction of capital made in pursuance of this section. 1901, c. 20, s. 88.

Alteration of Objects Mentioned in Memorandum of Association.

Alteration of memorandum of association or constitution

89. Subject to the provisions of this Ordinance any company registered under this Ordinance may by special resolution alter the provisions of its memorandum of association so far as may be required for any of the purposes hereinafter specified; but in no case shall any such alteration take effect until confirmed on petition by the court.

(2) Before confirming any such alteration the court mus tbe satisfied—

(*a*) That sufficient notice has been given to every holder of debentures or debenture stock of the company and any person or class of persons whose interests will in the opinion of the court be affected by the alteration; and

(*b*) That with respect to every creditor who in the opinion of the court is entitled to object and who signifies his objection in manner directed by the court either his consent to the alteration has been obtained or his debt or claim has been discharged or determined or has been secured to the satisfaction of the court:

Provided that the court may in the case of any person or class of persons for special purposes dispense with the notice required by this section.

(3) An order confirming any such alteration may be on such terms and subject to such conditions as to the court seems fit; and the court may make such orders as to costs as it deems proper.

(4) The court shall in exercising its discretion under the provisions of this section have regard to the rights and interests of the members of the company or of any class of those members as well as to the rights and interests of the creditors; and may if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interest of dissentient members; and the court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect:

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

Grounds of confirmation

(5) The court may confirm either wholly or in part any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

(*a*) To carry on its business more economically or more efficiently; or

(*b*) To attain its main purpose by new or improved means; or

(*c*) To enlarge or change the local area of its operations; or

(*d*) To carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(*e*) To restrict or abandon any of the objects specified in the memorandum of association. 1901, c. 20, s. 89.

Registration of altered memorandum of association

90. Where a company has altered the provisions of its memorandum of association with respect to the objects of the company and such alteration has been confirmed by the court, an office copy of the order confirming such alteration together with a copy of the memorandum of association so altered shall be delivered by the company to the registrar within fifteen days from the date of the order; and the registrar shall register the same; and shall certify under his hand the registration thereof; and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to such alteration and confirmation thereof have been complied with; and thenceforth but subject to the provisions of this Ordinance the memorandum so altered shall be the memorandum of association of the company.

Penalty

(2) If the company makes default in delivering to the registrar any document required by this section to be delivered to him the company shall upon summary conviction be liable to a penalty not exceeding $50 for every day during which it is in default; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 90.

Increase of Capital.

Power of certain companies to alter memorandum of association

91. Any company limited by shares may so far modify the conditions contained in its memorandum of association if authorized to do so by its regulations as originally framed or altered by special resolution in manner hereinafter mentioned as to increase its capital by the issue of new shares of such amount as it thinks expedient or to consolidate and divide its capital into shares of larger amount than its existing shares or to convert its existing shares into stock but save as aforesaid and save as to the location of the registered office of the company and as herein provided no alteration shall be made by the company in the conditions contained in its memorandum of association. 1901, c. 20, s. 91.

Change of Name.

Proceedings for change of name

92. When a company is desirous of changing its name the registrar upon being satisfied that the company is in a solvent condition, that the change is not otherwise objectionable, that the change has been sanctioned by a special resolution of the company and that the notice hereinafter provided has been duly given, may change the name of the company to some other name.

(2) The company shall give at least one month's previous notice in the gazette and in some newspaper published or circulated in the locality in which the operations of the company are carried on of the intention to apply for the change of name and shall state the name proposed to be adopted.

(3) Such change of name shall be conclusively established by the insertion in the gazette of a notice thereof by the registrar. 1901, c. 20, s. 92.

Effect of such change of name

93. No contract or engagement entered into by or with the company and no liability incurred by it shall be affected by the change of name; and all suits commenced by or against the company prior to the change of name may be proceeded with against or by the company under its former name. 1901, c. 20, s. 93.

Limited company may by special resolution make liability of directors unlimited

94. Any limited company may by a special resolution if authorized so to do by its regulations as originally framed or as altered by special resolution from time to time modify the conditions contained in its memorandum of association so far as to render unlimited the liability of its directors or managers or of the managing director; and such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association; and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution; any default in this respect shall be deemed to be a default in complying with the provisions of the one hundred and twenty-fourth section of this Ordinance and shall be punished accordingly. 1901, c. 20, s. 94.

Contracts.

Contracts how made

95. Contracts on behalf of any company incorporated under this Ordinance may be made as follows, that is to say:

Specialty

(*a*) Any contract which if made between private persons would be by law required to be in writing and if made according to the law of the Territories or of the Dominion of Canada to be under seal may be made on behalf of the company in writing under the common seal of the company; and such contract may be in the same manner varied or discharged;

Simple contracts required by law to be in writing

(*b*) Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith may be made on behalf of the company in writing signed by any person acting under the express or implied authority of the company; and such contract may in the same manner be varied or discharged;

Contracts by parole

(*c*) Any contract which if made between private persons would by law be valid although made by parole only and not reduced into writing may be made by parole on behalf of the company by any person acting under the express or implied authority of the company; and such contract may in the same manner be varied or discharged; and all contracts made according to the provisions herein contained shall be effectual in law; and shall be binding upon the company and their successors and all other parties thereto, their heirs, executors or administrators as the case may be. 1901, c. 20, s. 95.

Promissory notes and bills of exchange

96. A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed on behalf of any company under this Ordinance if made, accepted or endorsed in the name of the company by any person acting under the authority of the company or if made, accepted or endorsed by or on behalf or on account of the company by any person acting under the authority of the company. 1901, c. 20, s. 96.

Contracts generally when made by company, etc.

97. Subject to the provisions of section 95 every contract, agreement, engagement or bargain made and every bill of exchange drawn, accepted or endorsed and every promissory note and cheque made, drawn or endorsed on behalf of the company by any agent, officer or servant of the company in general accordance with his powers as such under the regulations of the company shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque or to prove that the same was made, drawn, accepted or endorsed as the case may be in pursuance of any regulations or special resolution or order; nor shall the party so acting as agent, officer or servant of the company be thereby subjected individually to any liability whatsoever to any third party therefor. 1901, c. 20, s. 97.

Interpretation of contract

97*a*. In this section "contract" shall mean and include any contract, agreement, undertaking or promise—

(*a*) To pay to or for the contract-holder any money or money's worth;

(*b*) To sell, supply or procure any building or site or land or to bring about the purchase and sale or supply thereof; or

(*c*) To construct or procure the construction of any house or building;

made upon any consideration which includes an entrance or membership fee, or expense contribution, initial, renewal, periodical or recurrent, or which includes any periodical or recurrent contribution to a fund, or account, or source for, or intended or alleged to be for, the carrying out of such contract;

Interpretation extended

And "contract" shall further include any contract, agreement, undertaking or promise, the benefit of which to the contract-holder paying any such consideration is to be wholly or partly postponed or deferred until other contract-holders have been provided for, or is to depend upon the number or the persistence of the other contract-holders, or upon the accession of new contract-holders, or upon the order or sequence of the contract.

Prohibition against certain contracts

(2) Notwithstanding anything contained in sections 95, 96 and 97 hereof any person, partnership, organization, society, association, company or corporation undertaking or effecting or offering to undertake or effect any such contract, shall be guilty of an offence; and any person acting on behalf of such person, partnership, organization, society, association, company or corporation, shall also be guilty of an offence, and the convicting magistrate, or justices, in addition to imposing the prescribed penalty, may at the time of conviction or thereafter make such order for the restitution of the money which was unlawfully taken as to him or them shall seem just; and in default of compliance with such order, the offender shall be liable to imprisonment for a term not exceeding twelve months.

Order for restitution of money taken

Penalty for noncompliance with said order

(3) For the first offence under this section the offender shall incur a penalty of not less than $20 and not more than $200 and for a second or subsequent offence of the same kind shall be liable to imprisonment for any term not less than three months and not more than twelve months, or in the case of an organization, society, association, company or corporation, to a penalty not exceeding $1,000. 1913 (1st Session), c. 9, s. 7.

Borrowing Powers

Power to borrow money and to secure repayment

98. All companies under this Ordinance shall have power subject to the conditions of and in addition to all other powers conferred by this Ordinance to borrow money for the purpose of carrying out the objects of their respective incorporations; and to hypothecate, pledge or mortgage their real and personal property; to issue debentures secured by mortgages or otherwise; to sign bills, notes, contracts and other evidences of or securities for money borrowed or to be borrowed by them for the purposes aforesaid; and to pledge debentures as security for temporary loans.

(2) These powers shall not be exercised except with the sanction of a resolution of the company previously given in general meeting. 1901, c. 20, s. 98; 1907, c. 5, s. 13.

Power to reissue redeemed debentures in certain cases

98*a*. Where either before or after the passing of this section a company has redeemed any debentures previously issued, the company, unless the articles of association of the company or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company so to do, and not being an obligation enforceable only by the persons to whom the redeemed debentures were issued or his assigns, shall have power, and shall be deemed always to have had power to keep the debentures alive for the purpose of re-issue, and where a company has purported to exercise such a power, the company shall have power, and shall be deemed always to have had power, to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place, and upon such a re-issue the person entitled to the debentures shall have, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

(2) Where with the object of keeping debentures alive for the purpose of re-issue, they have either before or after the passing of this section been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a re-issue for the purpose of this section.

(3) Where a company has either before or after the passing of this section deposited any of its debentures to secure advances from time to time on current account or otherwise, the debenture shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) Nothing in this section shall prejudice—

(*a*) The operation of any judgment or order of a court of competent jurisdiction pronounced or made before the coming into force of this section, as between the parties

to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this section had not been passed; or

(*b*) Any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished reserved to a company by its debentures or the securities for the same. 1908, c. 20, s. 3.

Provision for Protection of Creditors.

Registered office of company

99. Every company under this Ordinance shall have a registered office within the Territories to which all communications may be addressed.

(2) If any company under this Ordinance carries on business without having such an office it shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which business is so carried on. 1901, c. 20, s. 99.

Notice of situation of

100. Notice of the situation of such registered office and of any change therein shall be given to the registrar and recorded by him; and until such notice is given the company shall not be deemed to have complied with the provisions of this Ordinance with respect to having a registered office. 1901, c. 20, s. 100.

Publication of name by a limited company

101. Every limited company under this Ordinance whether limited by shares or by guarantee shall paint or affix and shall keep painted or affixed its name on the outside of every office or place in which the business of the company is carried on in a conspicuous position in letters easily legible; and shall have its name engraven in legible characters on its seal; and shall have its name mentioned in legible characters in all notices, advertisements and other official publications of such company and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such company; and in all bills of parcels, invoices, receipts and letters of credit of the company. 1901, c. 20, s. 101.

Penalties for nonpublication of name, etc.

102. If any limited company under this Ordinance does not paint or affix and keep painted or affixed its name in manner directed by this Ordinance it shall upon summary conviction be liable to a penalty not exceeding $25 for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed; and every director and manager of the company who shall knowingly and wilfully authorize and permit such default shall upon summary conviction be liable to the like penalty; and if any director, manager or officer of such company or any person on its behalf uses or authorizes the use of any seal purporting to be the seal of the company whereon its name is not so engraven as aforesaid or issues or authorizes the issue of any notice, advertisement or other official publication of such company or signs or authorizes to be signed on behalf of such company any bill of exchange, promissory note, endorsement, cheque or order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the company whereby its name in not mentioned in manner aforesaid he shall upon summary conviction be liable

to a penalty of $250 and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof unless the same is duly paid by the company. 1901, c. 20, s. 102.

Register of mortgages

103. Every company under this Ordinance shall keep a register of all mortgages and charges specially affecting property of the company; and shall enter in such register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created, and the names of the mortgagees or persons entitled to such charge; and if any property of the company is mortgaged without such entry as aforesaid being made every director, manager or officer of the company who knowingly and wilfully authorizes or permits the omission of such entry shall upon summary conviction be liable to a penalty not exceeding $250.

(2) The register of mortgages required by this section shall be open to inspection by any creditor or member of the company at all reasonable times; and if such inspection is refused any officer of the company refusing the same and every director and manager of the company authorizing or knowingly and wilfully permitting such refusal shall upon summary conviction be liable to a penalty not exceeding $25 and a further penalty of $10 for every day during which such refusal continues; and in addition to the above penalty any judge of the Supreme Court sitting in chambers may by summary order compel an immediate inspection of the register. 1901, c. 20, s. 103.

Register of directors, etc.

104. Every company under this Ordinance shall keep at its registered office a register containing the names and addresses and the occupations of its directors or managers; and shall send to the registrar a copy of such register; and shall from time to time notify the registrar of any change that takes place in such directors or managers. 1901, c. 20, s. 104.

Penalty on company not keeping register

105. If any company under this Ordinance makes default in keeping a register of its directors or managers or in sending a copy of such register to the registrar in compliance with the foregoing rules or in notifying to the registrar any change that takes place in such directors or managers such delinquent company shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such default continues; and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 105.

Prohibits carrying on business with less than three members

106. If any company under this Ordinance carries on business when the number of its members is less than three for a period of six months after the number has been so reduced every person who is a member of such company during the time that it so carries on business after such period of six months and is cognizant of the fact that it is so carrying on business with fewer than three members shall be severally liable for the payment of the whole of the debts of the company contracted during such time and may be sued for the same without the joinder in the action of suit of any other member. 1901, c. 20, s. 106.

Restrictions on commencement of business

107. A company shall not commence any business or exercise any borrowing powers unless—

(*a*) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(*b*) Every director of the company has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and

(*c*) There has been filed with the registrar a statutory declaration by the secretary or one of the directors in the prescribed form that the aforesaid conditions have been complied with.

(2) The registrar shall on the filing of this statutory declaration certify that the company is entitled to commence business; and that certificate shall be conclusive evidence that the company is so entitled.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only; and shall not be binding on the company until that date; and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription of any shares and debentures or the receipt of any application.

(5) If any company commences business or exercises borrowing powers in contravention of this section every person who is responsible for the contravention shall without prejudice to any other liability be liable to a fine not exceeding $200 for every day during which the contravention continues.

(6) This section shall not apply to any company where there is no invitation to the public to subscribe for its shares. 1901, c. 20, s. 107.

Restrictions as to allotment

108. No allotment shall be made of any share capital of a company offered to the public for subscription unless the following conditions have been complied with, namely:

(*a*) The amount if any fixed by the memorandum or articles of association, and named in the prospectus as a minimum subscription upon which the directors may proceed to allotment; or

(*b*) If no amount is so fixed and named, then the whole amount of the share capital so offered for subscription has been subscribed and the sum payable on application for the amounts so fixed and named or for the whole amount offered for subscription has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Ordinance referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than five per centum of the nominal amount of the share. This subsection shall not apply to a company specially limited under section 63. 1914, c. 10, s. 7.

(4) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus all money received from applicants for shares shall be forthwith repaid to the applicants without interest; and if any such money is not repaid within forty-eight days after the issue of the prospectus the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the forty-eight days:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding an applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section except subsection (3) thereof shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription. 1901, c. 20, s. 108.

108*a*. No allotment shall be made of any shares, stock, bonds or debentures of a company offered to the public for subscription unless a prospectus has been previously filed with the registrar, and no subscription for shares, debentures or debenture stock shall be binding upon the subscriber, unless before he subscribes he receives a copy of such prospectus.

(2) This section shall apply to every company whether incorporated by or under the laws of Alberta or otherwise. 1914, c. 10, s. 8.

Effect of irregular allotment

109. An allotment made by a company to an applicant in contravention of the foregoing provisions of this Ordinance shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later; and shall be voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorizes the contravention of any of the foregoing provisions of this Ordinance with respect to allotments he shall be liable to compensate the company and the allottee respectively for any loss, damage or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover such loss, damage or costs shall not be commenced after the expiration of two years from the date of the allotment. 1901, c. 20, s. 109.

Returns as to allotments

110. Whenever a company limited by shares makes any allotment of its shares the company shall within one month thereafter file with the registrar—

(*a*) A return of the allotments stating the number and nominal amount of the shares comprised in the allotment; the names, addresses and descriptions of the allottees; and the amounts if any paid or due and payable on each share; and

(*b*) In the case of shares allotted in whole or in part for a consideration other than cash, a contract in writing stating the title of the allottee to such allotment together

with any contract of sale or for services, or other consideration in respect of which such allotment was made, and in default of such contract being filed such shares shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash; and a return stating the number and nominal amount of shares so allotted and the extent to which they are to be treated as paid up and the consideration for which they have been allotted:

Proviso

Provided that whenever after the coming into force of this amendment any shares in the capital of any company credited as fully or partly paid up shall have been or may be issued for a consideration other than cash and no such contract or no sufficient contract is so filed with the registrar and whenever before the coming into force of the amendment to this Ordinance repealing section 43 thereof no such contract or no sufficient contract was or has been filed with the registrar at or before the issue of any such shares the company or any person interested in such shares or any of them may apply to the court for relief, and the court if satisfied that the omission to file the contract or a sufficient contract was accidental or due to inadvertence or that for any reason it is just and equitable to grant relief, may, make an order for the filing with the registrar of a sufficient contract in writing, and directing that on such contract being filed within a specified period it shall in relation to such shares operate as if it had been duly filed with the registrar aforesaid and any such application may be made in the manner in which an application to rectify the register of members may be made under section 40 of this Ordinance, and either before or after an order has been made or an effective resolution has been passed for the winding up of such company, and either before or after the commencement of any proceedings for enforcing the liability of such shares consequent on the omission aforesaid and any such application shall, if not made by the company, be served on the company and the court may make such order upon such application as may seem meet, and as to costs, and may direct that an office copy of the order be filed with the registrar, and may, if it appear that the filing of the requisite contract would cause delay or inconvenience, or is impracticable, direct the filing in lieu thereof of a memorandum in writing in a form approved by the court, specifying the consideration for which the shares were issued and may direct that on such memorandum being filed within a specified period, it shall in relation to such shares operate as if it were a sufficient contract in writing as by law is or was required. 1901, c. 20, s. 110; 1907, c. 5, s. 13.

(2) If default is made in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding $250 for every day during which default continues. 1901, c. 20, s. 110.

Commissions, discounts, etc.

111. It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally for any shares in the company or procuring or agreeing to procure subscriptions whether absolute or conditional for any shares in the company, if the payment of the commission and the amount or rate per centum of the

commission and the amount or rate per centum of the commission paid or agreed to be paid, are respectively authorized by the articles of association, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized; provided that the payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid are disclosed in the prospectus, and if there is no prospectus, by personal notice given to each party before he enters into any contract with the company in respect of shares. 1901, c. 20, s. 111. Repealed and substituted 1914, c. 10, s. 9.

Notices, etc.

Corporate name and proof of memorandum, etc., in actions and proceedings

112. In any action or proceeding it shall not be necessary to set forth the mode of incorporation of the company otherwise than by mention of it under its corporate name as incorporated or re-incorporated under this Ordinance; and the memorandum and articles of association of the company or any exemplification or copy thereof certified under the hand and seal of the registrar or any copy of the gazette containing such memorandum and articles of association shall be conclusive proof of every matter and thing therein set forth. 1901, c. 20, s. 112.

Certified copy of resolution *prima facie* evidence

113. A copy of any resolution of a company under its seal and purporting to be signed by any officer of the company shall be *prima facie* evidence of such resolution. 1901, c. 20, s. 113.

Service on company

114. Any summons, notice, order or other process or document requiring to be served upon the company may in addition to any other method of service from time to time provided by any Ordinance or rule of court in that behalf be served by leaving the same at the registered office of the company with any adult person in the employ of the company or by leaving it with the president or secretary of the company or by leaving the same at the domicile of either of them or with any adult person of his family or in his employ or by sending it in a prepaid letter addressed to the company at its registered office or if the company has no registered office or has no known president or secretary the court may order such publication as it deems requisite to be made in the premises and such publication shall be held to be due service upon the company. 1901, c. 20, s. 114.

Rules as to notices by letter

115. Any document to be served by post on the company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period if any prescribed for the service thereof; and in proving service of such document it shall be sufficient to prove that such document was properly directed and that it was put as a prepaid letter in the post office. 1901, c. 20, s. 115.

Authentication of notices by company

116. Any summons, notice, order or proceeding requiring authentication by the company may be signed by any director, secretary or other authorized officer of the company and need not be under the common seal of the company; and the same may be in writing or in print or partly in writing and partly in print. 1901, c. 20, s. 116.

Statutory Meeting.

First statutory meeting of company

117. Every company limited by shares shall within a period of six months from the date at which the company is entitled to commence business hold a general meeting of the members of the company which shall be called the statutory meeting.

(2) The directors shall at least seven days before the day on which the meeting is held forward to every member of the company a report certified by not less than two directors of the company or where there are less than two directors by the sole director and manager stating:

(*a*) The total number of shares allotted distinguishing shares allotted as fully or partly paid up otherwise than in cash; and stating in the case of shares partly paid up the extent to which they are so paid up; and in either case the consideration for which they have been allotted;

(*b*) The total amount of cash received by the company in respect of such shares distinguished as aforesaid;

(*c*) An abstract of the receipts and payments of the company on capital account to the date of the report; and an account or estimate of the preliminary expenses of the company;

(*d*) The names, addresses and descriptions of the directors, auditors if any, manager if any and secretary of the company; and

(*e*) The particulars of any contract the modification of which is to be submitted to the meeting for its approval; together with the particulars of the modification or proposed modification.

(3) The report shall so far as it relates to the shares allotted by the company and to the cash received in respect to such shares and to the receipts and payment of the company on capital account be certified as correct by the auditors if any of the company.

(4) The directors shall cause a copy of the report certified as by this section required to be filed with the registrar forthwith after the sending thereof to the members of the company.

(5) The directors shall cause a list showing the names, descriptions, and addresses of the members of the company and the number of shares held by them respectively to be produced at the commencement of the meeting and to remain open and accessible to any member of the company during the continuance of the meeting.

(6) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the report whether previous notice has been given or not; but no resolution of which notice has not been given in accordance with the articles of association may be passed.

(7) The meeting may adjourn from time to time; and at any such adjourned meeting any resolution of which notice has been given in accordance with the articles of association either before or subsequent to the former meeting may be passed; and the adjourned meeting shall have the same powers as an original meeting.

(8) If default is made in filing such report as aforesaid or in holding the statutory meeting then at the expiration of four-

teen days after the last day on which the meeting ought to have been held any shareholder may petition the court for the winding up of the company; and upon the hearing of the petition the court may either direct that the company be wound up or give directions for the report being filed or a meeting being held or make such other order as may be just; and may order that the costs of the petition be paid by any person who in the opinion of the court are responsible for the default. 1901, c. 20, s. 117.

General meetings

118. A general meeting of every company under this Ordinance shall be held once at least in every year.

(2) Notwithstanding anything in the regulations of a company the directors shall on the requisition of the holders of not less than one-tenth of the issued capital of the company upon which all calls and other sums then due have been paid forthwith proceed to convene an extraordinary meeting of the company.

(3) The requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the office of the company; and may consist of several documents in like form each signed by one or more requisitionists.

(4) If the directors of the company do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited the requisitionists or a majority of them in value may themselves convene the meeting; but any meeting so convened shall not be held after three months from the date of such deposit.

(5) If at any such meeting a resolution requiring confirmation at another meeting is passed the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution and if thought fit of confirming it as a special resolution; and if the directors do not convene the meeting within seven days from the date of the passing of the first resolution the requisitionists or a majority of them in value may themselves convene the meeting.

(6) Any meeting convened under this section by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by directors. 1901, c. 20, s. 118.

Alteration of regulations by special resolution

119. Subject to the provisions of this Ordinance and to the conditions contained in the memorandum of association any company formed under this Ordinance may in general meeting from time to time by passing a special resolution in manner hereinafter mentioned alter all or any of the regulations of the company contained in the articles of association or in the table marked A in the first schedule where such table is applicable to the company or make new regulations to the exclusion of or in addition to all or any of the regulations of the company; and any regulations so made by special resolution shall be deemed to be regulations of the company of the same validity as if they had been originally contained in the articles of association; and shall be subject in like manner to be altered or modified by any subsequent special resolution. 1901, c. 20, s. 119.

Special resolutions

120. A resolution passed by a company under this Ordinance shall be deemed to be special whenever a resolution has been

passed by a majority of not less than three-fourths of such members of the company for the time being entitled according to the regulations of the company to vote as may be present in person or by proxy in cases whereby the regulations of the company proxies are allowed at any general meeting of which notice specifying the intention to propose such resolution has been duly given; and such resolution has been confirmed by a majority of such members for the time being entitled according to regulations of the company to vote as may be present in person or by proxy at a subsequent general meeting of which notice has been duly given and held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which such resolution was first passed.

(2) At any meeting mentioned in this section unless a poll is demanded by at least five members a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the same.

(3) Notice of any meeting shall for the purposes of this section be deemed to be duly given and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the company.

(4) In computing the majority under this section when a poll is demanded reference shall be had to the number of votes to which each member is entitled by the regulations of the company. 1901, c. 20, s. 120.

Provisions where no regulations as to voting

121. In default of any regulations as to voting every member shall have one vote; and in default of any regulations as to summoning general meetings a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto; and in default of any regulations as to the person to summon meetings five members shall be competent to summon the same; and in default of any regulations as to who is to be chairman of such meeting it shall be competent for any person elected by the members present to preside. 1901, c. 20, s. 121.

Registration of special resolution

122. A copy of any special resolution that is passed by any company under this Ordinance shall be forwarded to the registrar and be recorded by him.

(2) If such copy is not forwarded within fifteen days from the date of the confirmation of the resolution the company shall upon summary conviction be liable to a penalty not exceeding $10 for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director, manager and officer of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 122.

Special resolution to be embodied in articles of association, or supplied to members

123. Where articles of association have been registered a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution and where no articles of association have been registered a copy

of any special resolution shall be forwarded to any member requesting the same on payment of twenty-five cents or such less sum as the company may direct.

(2) If any company makes default in complying with the provisions of this section it shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 123.

Power of attorney by company

124. Any company under this Ordinance may by instrument in writing under its common seal empower any person either generally or in respect of any specified matters as its attorney to execute deeds on its behalf in any place situate within or without the limits of the Territories; and every deed signed by such attorney on behalf of the company and under his seal shall be binding on the company and have the same effect as if it were under the common seal of the company. 1901, c. 20, s. 124.

INSPECTORS.

Inspectors appointed by Lieutenant Governor in Council on application

125. The Lieutenant Governor in Council may appoint one or more competent inspectors to examine into the affairs of any company under this Ordinance and to report thereon in such manner as the Lieutenant Governor in Council may direct upon the applications following, that is to say:

(*a*) In the case of any company that has a capital divided into shares upon the application of members holding not less than one-fifth of the whole shares of the company for the time being issued:

(*b*) In the case of any company not having a capital divided into shares upon the application of members being in number no less than one-fifth of the whole number of persons for the time being entered on the register of the company as members. 1901, c. 20, s. 125.

On what application to be based

126. The application shall be supported by such evidence as the Lieutenant Governor in Council may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made and that they are not actuated by malicious motives in instituting the same; the Lieutenant Governor in Council may also require applicants to give security for payment of the costs of the inquiry before appointing any inspector or inspectors. 1901, c. 20, s. 126.

Officers, etc., to produce books, etc., for inspection

127. It shall be the duty of all officers and agents of the company to produce for the examination of the inspectors all books and documents in their custody or power; and any inspector may examine upon oath the officers and agents of the company in relation to its business and may administer such oath accordingly.

(2) If any officer or agent refuses to produce any book or document hereby directed to be produced or to answer any question relating to the affairs of the company he shall upon summary conviction be liable to a penalty not exceeding $25 in respect of each offence. 1901, c. 20, s. 127.

Report

128. Upon the conclusion of the examination the inspectors shall report the result of the same to the Lieutenant Governor in Council; and a copy of such report shall be forwarded by the Territorial Secretary to the registered office of the company; and a further copy shall at the request of the members upon whose application inspection is made be delivered to them or to any one or more of them.

Expenses

(2) All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed unless the Lieutenant Governor in Council shall direct the same to be paid out of the assets of the company which he is hereby authorized to do. 1901, c. 20, s. 128.

Inspectors appointed by special resolution

129. Any company under this Ordinance may by special resolution appoint inspectors for the purpose of examining into the affairs of the company; and the inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Lieutenant Governor in Council with this exception that instead of making their report to the Lieutenant Governor in Council they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors or to answer any question as they would have incurred if such inspector had been appointed by the Lieutenant Governor in Council. 1901, c. 20, s. 129.

Proof of admissibility of report in legal proceedings

130. A copy of the report of any inspectors appointed under this Ordinance authenticated by the seal of the company into whose affairs they have made the inspection shall be admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in such report. 1901, c. 20, s. 130.

Audit.

Appointment of auditors

131. Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment is not made at an annual general meeting the registrar may on the application of any member of the company appoint an auditor of the company for the current year and fix the remuneration to be paid to him by the company for his services.

(3) A director or officer of the company shall not be capable of being appointed auditor of the company.

(4) The first auditors of the company may be appointed by the directors before the statutory meeting; and if so appointed shall hold office until the first annual general meeting unless previously removed by a resolution of the shareholders in general meeting in which case the shareholders at such general meeting may appoint auditors.

(5) The directors of the company may fill any casual vacancy in the office of auditor; but while any such vacancy continues the surviving or continuing auditor or auditors if any may act. 1901, c. 20, s. 131.

Remuneration of auditors

132. Subject to the provisions of the next preceding section the remuneration of the auditors of a company shall be fixed by the company in general meeting; except that the remuneration of any auditors appointed before the statutory meeting or to fill any casual vacancy may be fixed by the directors. 1901, c. 20, s. 132.

Rights and duties of auditors

133. Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors; and the auditors shall sign a certificate at the foot of the balance sheet stating whether or not all their requirements as auditors have been complied with; and shall make a report to the shareholders on the accounts examined by them and on every balance sheet laid before the company in general meeting during their tenure of office; and in every such report shall state whether in their opinion the balance sheet referred to in their report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs as shown by the books of the company; and such report shall be read before the company in general meeting. 1901, c. 20, s. 133.

Legal Proceedings.

Evidence of proceedings at meetings

134. Every company under this Ordinance shall cause minutes of all resolutions and proceedings of general meetings of the company and of the directors and managers of the company in cases where there are directors or managers to be duly entered in the books to be from time to time provided for the purpose; and any such minute as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting shall be received as evidence in all legal proceedings and until the contrary is proved every general meeting of the company or meeting of directors or managers in respect of proceedings of which minutes have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had and all appointments of directors, managers or liquidators shall be deemed to be valid; and all acts done by such directors, managers or liquidators shall be valid notwithstanding any defect that may afterwards be discovered in their appointments or qualification. 1901, c. 20, s. 134.

Plaintiff company to give security for costs in certain cases

135. Where a company under this Ordinance is plaintiff in any action, suit or other legal proceeding any judge having jurisdiction in the matter may if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence the assets of the company will be insufficient to pay his costs require sufficient security to be given for such costs and may stay all proceedings until such security is given. 1901, c. 20, s. 135.

Declaration in action against member

136. In any action or suit brought by a company under this Ordinance against any member to recover any call or other moneys due from such member in his character of member it shall

not be necessary to set forth the special matter but it shall be sufficient to allege that the defendant is a member of the company and is indebted to the company in respect of a call made or other moneys due whereby a right of action or suit hath accrued to the company. 1901, c. 20, s, 136.

False Statement.

Penalty for false statement

137. If any person in any return, report, certificate, balance sheet or other document required by or for the purposes of this Ordinance wilfully makes a statement false in any material particularly knowing it to be false he shall be liable on summary conviction to a penalty not exceeding $500 or to imprisonment for a term not exceeding four months or to both fine and imprisonment. 1901, c. 20, s. 137.

Arbitration.

Power to companies to refer matters to arbitration

138. Any company under this Ordinance may from time to time by writing under its common seal agree to refer and may refer to arbitration in accordance with *The Arbitration Ordinance* any existing or future difference, question or other matter whatsoever in dispute between itself and any other company or person; and the parties to the arbitration may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves or by the directors or other managing body of such companies. 1901, c. 20, s. 138. NOTE: See *Arbitration Act*, 1909, c. 6.

Application of Arbitration Ordinance

139. All the provisions of *The Arbitration Ordinance* shall be deemed to apply to arbitrations between companies and persons in pursuance of this Ordinance. 1901, c. 20, s. 139. NOTE: See *Arbitration Act*, 1909, c. 6.

Lieutenant Governor in Council may alter forms in schedule

140. The forms set forth in the second schedule hereto or forms as near thereto as circumstances admit shall be used in all matter to which such forms refer.

(2) The Lieutenant Governor in Council may from time to time make such alterations in the forms in the second schedule or make such additions to the said forms as may be requisite.

(3) Any alteration or any form when altered shall be published in the gazette; and upon such publication being made such alteration or such form shall have the same force as if it were included in the schedule to this Ordinance and shall be substituted in or for the form it alters. 1901, c. 20, s. 140.

PART IV.

APPLICATION TO EXISTING COMPANIES.

Existing companies may register

141. Any company heretofore incorporated by any special Ordinance of the Territories or by letters patent under the provisions of any Ordinance of the Territories may register itself under this Ordinance as a company limited by shares. 1901, c. 20, s. 141.

142. The procedure for registering any existing company shall be as follows: Procedure for registration of existing company

1. If it is not desired to make any alteration in the name, objects or capital of the company nor to provide for a new allotment of shares the directors may apply to the registrar to have the company registered.

2. If the directors should desire to change the name of the company or to extend its objects or to increase or reduce its capital or to provide for a new allotment of shares they shall call a meeting of the shareholders of the company by sending to each shareholder through the post in a prepaid letter addressed to him at his registered place of abode seven days' notice at the least specifying the place, the day and the hour of meeting and containing a copy of the resolution to be submitted to such meeting and such resolution shall contain particulars of the proposed alterations.

3. In case it shall be resolved by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at such meeting that the company be registered under this Ordinance in manner specified the directors shall apply to the registrar to have the company so registered. 1901, c. 20, s. 142.

143. When an existing company applies for registration under this Ordinance there shall be delivered to the registrar the following documents duly verified: Application for registration by existing company

1. A list showing the names, addresses and occupations of all persons who on a day named on such list and not being more than ten clear days before the day of registration were members of such company with the addition of the shares held by such persons respectively distinguishing in cases where such shares are numbered each share by its number;

2. The names of the directors of such company;

3. A copy of any letters patent, certificate or other instrument constituting or regulating the company or if incorporated by a special Ordinance a reference to such Ordinance and any amendments thereto;

4. A statement verifying the following particulars, that is to say:

(*a*) The nominal capital of the company and the number of shares into which it is divided;

(*b*) The number of shares taken and the amount paid on each share;

(*c*) The name of the company with the addition of the word "limited" as the last word thereof;

5. A memorandum of association or a statement that the letters patent or special Ordinance of incorporation as the case may be shall be treated as a memorandum of association and articles of association if desired executed in the same manner and containing the same particulars as are necessary upon the first registration of a company;

6. A copy of the resolution if any passed at the meeting of the company referred to in the preceding section. 1901, c. 20, s. 143.

144. Where an existing company applies for registration as aforesaid the memorandum of association shall conform with the terms of the resolution of the company; and may if so authorized extend, vary or limit the powers and objects of the old company; Power to existing company to vary objects of company, etc., upon registration

and the certificate of registration may be issued to the new company by the name of the old company or by any other name in which the last word shall be "limited."

(2) Where an existing company applies for registration as aforesaid the capital of the company may be increased or decreased to any amount which may be fixed by the resolution of the company authorizing such resolution.

(3) The said resolution may prescribe the manner in which the shares or stock in the new company are to be allotted; and in default of its so doing the control of the allotment shall vest absolutely in the directors of the new company.

(4) Whenever the registrar considers that public notice of an intended application as aforesaid should be given he may require such notice to be published in the gazette or otherwise as he thinks proper.

(5) The registrar may further require evidence of the existence of a company applying for registration as aforesaid. 1901, c. 20, s. 144.

Certificate of registration of existing company

145. Upon compliance by an existing company with the aforesaid requirements the registrar shall certify under his hand that the company so applying for registration is incorporated as a company under this Ordinance and that it is limited; and thereupon such company shall be incorporated and shall have perpetual succession and a common seal with power to hold lands. 1901, c. 20, s. 145.

Certificate of incorporation to be conclusive evidence

146. A certificate of incorporation given at any time to any company registered in pursuance of this part of this Ordinance shall be conclusive evidence that all the requirements herein contained in respect of registration under this Ordinance have been complied with; and that the company is authorized to be registered under this Ordinance as a limited company; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the company is incorporated under this Ordinance. 1901, c. 20, s. 146.

Transfer of property to company

147. All such property real and personal including all interests and rights in, to and out of property real and personal and including obligations and things in action as may belong to or be vested in the company at the date of its registration under this Ordinance shall on registration pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein. 1901, c. 20, s. 147.

Registration not to affect obligation previously incurred

148. The registration in pursuance of this part of this Ordinance of any company shall not affect or prejudice the liability of such company to have enforced against it or its right to enforce any debt or obligation incurred or any contract entered into, by, to, with or on behalf of such company previous to such registration. 1901, c. 20, s. 148.

Continuation of existing actions

149. All such actions and other legal proceedings as may at the time of the registration of any company registered in pursuance of this part of this Ordinance have been commenced by or against such company or any officer or member thereof may be continued in the same manner as if such registration had not

taken place; nevertheless execution shall not issue against the effects of any individual member of such company upon any judgment, decree or order obtained in any action, suit or proceeding so commenced as aforesaid; but in the event of the property and effects of the company being insufficient to satisfy such judgment, decree or order an order may be obtained for winding up the company. 1901, c. 20, s. 149.

Repeal.

150. Chapter 61 of The Consolidated Ordinances, 1898, intituled *An Ordinance respecting the Incorporation of Joint Stock Companies*, chapter 62 of The Consolidated Ordinances, 1898, intituled *An Ordinance to authorize the changing of the names of Incorporated Companies* and chapter 64 of The Consolidated Ordinances, 1898, intituled *An Ordinance respecting Mining Companies*, chapter 12 of the Ordinances of 1899 and chapter 17 of the Ordinances of 1900 amending chapter 61 of The Consolidated Ordinances, 1898, and chapter 19 of the Ordinances of 1900 amending chapter 64 of The Consolidated Ordinances, 1898, are hereby repealed:

Provided that such repeal shall not affect—

(*a*) Anything duly done under any of the said repealed Ordinances;

(*b*) The corporate existence of any company incorporated under the said repealed Ordinances;

(*c*) Any right or privilege acquired or liability incurred under any of the said repealed Ordinances;

(*d*) Any conveyance, transfer, mortgage, deed or other instrument made in pursuance of the said repealed Ordinances. 1901, c. 20, s. 150.

Compulsory registration

151. Every company incorporated under the said Ordinances hereby repealed or under any general Ordinance of the Territories relating to the incorporation of Joint Stock Companies shall register itself as a company under this Ordinance on or before the first day of July, 1902.

(2) No fees shall be charged in respect of the registration of any company required to register by this section except in respect of increase of capital. 1901, c. 20, s. 151.

Penalty for company not registering

152. If any company required by the preceding section to register under this Ordinance makes default in complying with the provisions thereof then from and after the date upon which such company is required to register under this Ordinance until the day on which such company is registered under this Ordinance which it is empowered to do at any time the following consequences shall ensue, that is to say:

(*a*) The company shall be incapable of suing but shall not be incapable of being made a defendant to a suit;

(*b*) No dividend shall be payable to any shareholder in such company;

(*c*) Each director or manager of the company shall for each day during which the company so being in default carries on business on summary conviction be liable to a penalty not exceeding $25;

nevertheless such default shall not render the company so being in default an illegal one nor subject to any penalty or disability other than as specified in this section. 1901, c. 20, s. 152.

FIRST SCHEDULE.

TABLE A.—Regulations for Management of a Company Limited by Shares.

Shares.

First schedule Table A

(1) If several persons are registered as joint holders of any shares any of such persons may give effectual receipts for any dividend payable in respect of such shares.

(2) Every member shall on payment of twenty-five cents or such less sum as the company in general meeting may prescribe be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon.

(3) If such certificate is worn out or lost it may be renewed on payment of twenty-five cents or such less sum as the company in general meeting may prescribe.

Call on Shares.

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit provided that thirty days' notice at least is given of each call and each member shall be liable to pay the amount of calls so made to the persons and at the time and place appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorizing such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

(7) The directors may if they think fit receive from any member willing to advance the same all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and upon the money so paid in advance or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made the company may pay interest at such rate as the member paying such sum in advance and the directors may agree upon.

Transfer of Shares.

(8) The instrument of transfer of any shares in the company shall be executed both by the transferrer and the transferee and the transferrer shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the company shall be transferred in the following form:

I, *A.B.*, of....., in consideration of the sum of dollars paid to me by *C.D.*, of....., do hereby transfer to the said *C.D.* the share (*or* shares) numbered..... standing in my name in the books of the.....company to hold unto the said *C.D.*, his executors, administrators and assigns subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C.D.*, do hereby agree to take the said share (*or* shares) subject to the same conditions.

As witness our hands the.....day of.....

(10) The company may decline to register any transfer of shares made by a member who is indebted to it.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

Transmission of Shares.

(12) The executors or administrators of a deceased member shall be the only persons recognized by the company as having any title to his share.

(13) Any person becoming entitled to a share in consequence of the death or insolvency of any member may be registered as a member upon such evidence being produced as may from time to time be required by the company. First Schedule Table A

(14) Any person who has become entitled to a share in consequence of the death or insolvency of any member may instead of being registered himself elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the company accompanied with such evidence as the directors may require to prove the title of the transferrer and thereupon the company shall register the transferee as a member.

Forfeiture of Shares.

(17) If any member fails to pay any call on the day appointed for the payment thereof the directors may at any time thereafter during such time as the call remains unpaid serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such nonpayment.

(18) The notice shall name a further day on or before which such call and all interest and expenses that may have accrued by reason of such nonpayment are to be paid. It shall also name the place where payment is to be made, the place so named being either the registered office of the company or some other place at which calls of the company are usually made payable. The notice shall also state that in the event of nonpayment at or before the time and at the place appointed the shares in respect to which such call was made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest and expenses due in respect thereof has been made be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the company and may be disposed of in such manner as the company in general meeting thinks fit.

(21) Any members whose shares have been forfeited shall notwithstanding be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

(22) An affidavit that the call in respect of a share was made and notice thereof given and that default in payment of the call was made and that the forfeiture of the share was made by resolution of the directors to that effect shall be sufficient evidence of the facts therein stated as against all persons entitled to such share and such affidavit and the receipt of the company for the price of such share shall constitute a good title to such share and the certificate of proprietorship shall be delivered to the purchaser and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase and he shall not be bound to see to the application of the purchase money nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

Conversion of Shares into Stock.

(23) The directors may with the sanction of the company previously given in general meeting convert any paid up shares into stock.

(24) When any shares have been converted into stock the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests in the same manner and subject to the same regulations as and subject to which any shares in the capital may be transferred or as near thereto as circumstances admit.

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the company according to the amount of their respective interest in such stock; and such interest shall in proportion to the amount thereof confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company and for other purposes as would have been conferred by shares of equal amount in the capital of the company; but so that none of such privileges or advantages except the participation in the dividends and profits of the company shall be conferred by any such aliquot part of consolidated stock as would not if existing in shares have conferred such privileges or advantages.

Increase in Capital.

First Schedule Table A

(26) The directors may with the sanction of a special resolution of the company previously given in general meeting increase its capital by the issue of new shares such aggregate increase to be of such amount and to be divided into shares of such respective amounts as the company in general meeting directs or if no direction is given as the directors may think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital all new shares shall be offered to the members in proportion to the existing shares held by them and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting the time within which the offer if not accepted will be deemed to be declined; and after the expiration of such time or on the receipt of an intimation from the member whom such notice is given that he declines to accept the shares offered the directors may dispose of the same in such manner as they think most beneficial to the company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital and shall be subject to the same provisions with reference to the payment of the calls and the forfeiture of shares or nonpayment of calls or otherwise as if it had been part of the original capital.

General Meetings.

(29) The first general meeting shall be held at such time not being more than four months after the registration of the company and at such place as the directors may determine.

(30) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting, and if no other time or place is prescribed a general meeting shall be held on the first Monday in February every year at such place as shall be determined by the directors.

(31) The above mentioned general meetings shall be called ordinary meetings; all other meetings shall be called extraordinary.

(32) The directors may whenever they think fit and they shall upon a requistion made in writing by not less than one-fifth in number of the members of the company convene an extraordinary general meeting.

(33) Any requisition made by the members shall express the object of the meeting proposed to be called and shall be left at the registered office of the company.

(34) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition the requisitionists or any other members amounting to the required number may themselves convene an extraordinary general meeting.

Proceedings at General Meeting.

(35) Seven days' notice at the least specifying the place, the day and the hour of meeting and in case of special business the general nature of such business shall be given to the members in manner hereafter mentioned or in such other manner if any as may be prescribed by the company in general meeting but the nonreceipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36) All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend and the consideration of the accounts, balance sheets and the ordinary report of the directors.

(37) No business shall be transacted at any general meeting except the declaration of a dividend unless a quorum of members is present at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows, that is to say: If the persons who have taken shares in the company at the time of the meeting do not exceed ten in number the quorum shall be three; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty and one for every ten additional members after fifty with this limitation that no quorum shall in any case exceed twenty.

(38) If within one hour from the time appointed for a meeting a quorum is not present the meeting if convened upon the requisition of members shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place; and if at such adjourned meeting a quorum is not present it shall be adjourned *sine die*.

(39) The president of the company shall preside as chairman at every general meeting of the company.

(40) If there is no such chairman of if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting the members present shall choose some one of their number to be chairman.

(41) The chairman may with the consent of the meeting adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(42) At any general meeting unless a poll is demanded by at least three members a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the company shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43) If a poll is demanded by three or more members it shall be taken in such manner as the chairman directs and the result of such poll shall be deemed to be the resolution of the company in general meeting. In case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote.

Votes of Members.

(44) Every member shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred and an additional vote for every ten shares beyond the first hundred shares.

(45) If any member is a lunatic or idiot he may vote by his committee, *curator bonis* or other legal curator or guardian.

(46) If one or more persons are jointly entitled to a share or shares the member whose name stands first in the register of members as one of the holders of such share or shares and no other shall be entitled to vote in respect of the same.

(47) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid and no member shall be entitled to vote in respect of any share that he has acquired by transfer at any meeting held after the expiration of three months from the registration of the company unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48) Votes to be given either personally or by proxy.

(49) The instrument appointing a proxy shall be in writing under the hand of the appointer or if such appointer is a corporation under their common seal and shall be attested by one or more witness or witnesses. No person shall be appointed a proxy who is not a member of the company.

(50) The instrument appointing a proxy shall be deposited at the registered office of the company not less than twenty-four hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51) Any instrument appointing a proxy shall be in the following form:

.....Company, Limited.

I,....., of....., being a member of the.....Company, Limited, and entitled to.....vote (*or* votes) hereby appoint of.....as my proxy to vote for me and on my behalf at the (ordinary *or* extraordinary *as the case may be*) general meeting of the company to be held on the.....day of..... and at any adjournment thereof (*or* at any meeting of the company that may be held in the year.....).

As witness my hand this.....day of.....

Signed by the said.....in the presence of

Directors.

(52) The number of the directors and the names of the first directors shall be determined by the subscribers to the memorandum of association.

(53) Until directors are appointed the subscribers of the memorandum of association shall be deemed to be directors.

First Schedule Table A

(54) The future remuneration of the directors and their remuneration for services performed previously to the first general meeting shall be determined by the company in general meeting.

Powers of Directors.

(55) The business of the company shall be managed by the directors who may pay all expenses incurred in getting up and registering the company and may exercise all such powers of the company as are not by the foregoing Ordinance or by these articles required to be exercised by the company in general meeting subject nevertheless to any regulations of these articles, to the provisions of the foregoing Ordinance and to such regulations being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

Disqualification of Directors.

(57) The office of the director shall be vacated—

If he holds any other office or place of profit under the company;

If he becomes insolvent;

If he is concerned in or participates in the profits of any contract with the company;

But the above rules shall be subject to the following exceptions:

That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is a director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

Rotation of Directors.

(58) At the first ordinary meeting after the registration of the company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being or if their number is not a multiple of three then the number nearest to one-third shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall unless the directors agree among themselves be determined by ballot; in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up the meeting shall stand adjourned till the same day in the next week at the same time and place; and if at such adjourned meeting the places of the vacating directors are not filled up the vacating directors or such of them as have not had their places filled up shall continue in office until the ordinary meeting in the next year and so on from time to time until their places are filled up.

(63) The company may from time to time in general meeting increase or reduce the number of directors and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occuring in the board of directors may be filled up by the directors but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The company in general meeting may by a special resolution remove any director before the expiration of his period of office and may by an ordinary resolution appoint another person in his stead; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

Proceedings of Directors.

(66) The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors. First Schedule Table A

(67) The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected or if at any meeting the chairman is not present at the time appointed for holding the same the directors present shall choose some one of their number to be chairman of such meeting.

(68) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

(69) A committee may elect a chairman of their meetings. If no such chairman is elected or if he is not present at the time appointed for holding the same the members present shall choose one of their number to be chairman of such meeting.

(70) A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

(71) All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends.

(72) The directors may with the sanction of the company in general meeting declare a dividend to be paid to the members in proportion to their shares.

(73) No dividend shall be payable except out of the profits arising from the business of the company.

(74) The directors may before recommending any dividend set apart out of the profits of the company such sum as they think proper as a reserve fund to meet contingencies or for equalizing dividends of for repairing or maintaining the works connected with the business of the company or any part thereof; and the directors may invest the sum so set apart as a reserve fund upon such securities as they may select.

(75) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the company on account of calls or otherwise.

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the company.

(77) No dividend shall bear interest as against the company.

Accounts.

(78) The directors shall cause true accounts to be kept—

Of the stock-in-trade of the company;

Of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and

Of the credit and liabilities of the company.

The books of account shall be kept at the registered office of the company and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting shall be open to the inspection of the members during the hours of business.

(79) Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year made up to a date not more than three months before such meeting.

(80) The statement so made shall show arranged under the most convenient heads the amount of gross income distinguishing the several sources

First Schedule Table A

from which it has been derived and the amount of gross expenditure distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account so that a just balance of profit and loss may be laid before the meeting and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance sheet shall be made out in every year and laid before the company in general meeting and such balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to this table or as near thereto as circumstances admit.

(82) A printed copy of such balance sheet shall seven days previously to such meeting be served on every member in the manner in which notices are hereinafter directed to be served.

Notices.

(83) A notice may be served by the company upon any member either personally or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

(84) All notices directed to be given to the members shall with respect to any share to which persons are jointly entitled be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(85) Any notice if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put in the post office.

DR. BALANCE SHEET OF THE CO. MADE UP TO , 19 CR.

CAPITAL AND LIABILITIES.		$	$
I. CAPITAL	Showing: 1 The number of shares..... 2 The amount paid per share..... 3 If any arrears or calls, the nature of the arrears and the names of the defaulters..... 4 The particulars of any forfeited shares		
II. DEBTS AND LIABILITIES OF THE COMPANY	Showing: 5 The amount of loans on mortgages or debenture bonds. 6 The amount of debts owing by the company, distinguishing— (*a*) Debts for which acceptances have been given; (*b*) Debts to tradesmen for supplies of stock in trade or other articles; (*c*) Debts for law expenses; (*d*) Debts for interest on debentures or other loans; (*e*) Unclaimed dividends; (*f*) Debts not enumerated above.		
VI. RESERVE FUND	Showing: The amount set aside from profits to meet contingencies.		
VII. PROFIT AND LOSS	Showing: The disposable balance for payment of dividend, etc.		
CONTINGENT LIABILITIES	Claims against the company not acknowledged as debts Moneys for which the company is contingently liable.		

PROPERTY AND ASSETS.		$	$
III. PROPERTY HELD BY THE COMPANY	Showing: 7 Immovable property, distinguishing — (*a*) Freehold land..... (*b*) Freehold buildings..... (*c*) Leasehold buildings..... 8 Movable property, distinguishing— (*d*) Stock in trade; (*e*) Plant. The cost to be stated, with deductions for deterioration in value, as charged to the reserve fund or profit and loss.		
IV. DEBTS OWING TO THE COMPANY.	Showing: 9 Debts considered good for which the company hold bills or other securities. 10 Debts considered good for which the company hold no security. 11 Debts considered doubtful and bad. Any debt due from a director or other officer of the company to be separately stated.		
V. CASH AND INVESTMENTS	Showing: 12 The nature of investment and rate of interest. 13 The amount of cash, where lodged, and if bearing interest.		

First Schedule—Table A.

TABLE B.

First Schedule Table B

Table of fees to be paid to the registrar by a company having a capital divided into shares:

For registration of a company whose nominal capital does not exceed $20,000	$ 50.00
For registration of a company whose nominal capital exceeds $20,000, the above fee of $50.00 with the following additional fees regulated according to the amount of capital, that is to say:	
For every $5,000 or part of $5,000 after the first $20,000 up to $100,000	5.00
For every $10,000 or part of $10,000 after the first $100,000 up to $500,000	3.00
For every $100,000 or part of $100,000 thereafter	20.00
For registration of any increase of capital made after the first registration of the company, the same fees as would have been payable if such increased capital had formed part of the original capital at the time of registration.	
For registering change of name of a company	5.00
For registration of any existing company, except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.	
For registering any document hereby required or authorized to be registered other than the memorandum of association	1.00
For making a record of any fact hereby authorized or required to be recorded by the registrar a fee of	1.00
Fees for each search	.25
Fee for publishing the certificate of incorporation in *The Alberta Gazette*	5.00
Fee for filing articles of association	2.00

1913, c. 20, s. 5.

TABLE C.

First Schedule Table C

Table of fees to be paid to the registrar by a company not having its capital divided into shares:

For registration of a company whose number of members as stated in the articles of association does not exceed 10	$ 50.00
For registration of a company whose number of members as stated in the articles of association exceeds 10 but does not exceed 100	80.00
For registration of a company whose number of members as stated in the articles of association exceeds 100 but is not stated to be unlimited the above fee of $80.00, with an additional $5.00 for every fifty members after the first 100.	
For registration of a company in which the number of members is stated in the articles of association to be unlimited	200.00
For registration of any increase in the number of members made after the registration of the company in respect to every fifty members or less than fifty members of such increase	5.00
Provided, that no one company shall be liable to pay on the whole a greater fee than $100.00 in respect of its number of members, taking into account the fee paid on the first registration of the company.	
For registering any document hereby required or authorized to be registered other than the memorandum of association	1.00
For making a record of any fact hereby authorized or required to be recorded by the registrar of companies a fee of	1.00
Fees for each search	.25
Fee for publishing the certificate of incorporation in *The Alberta Gazette*	5.00
Fee for filing articles of association	2.00

1913, c. 20, s. 5.

SECOND SCHEDULE.

FORM A.—MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

(1) The name of the company is "The Rathburn Stove and Furnace Company, Limited."

(2) The registered office of the company will be situate in.....
.....

(3) The objects for which the company is established are "the manufacture and sale of stoves and furnaces." Second Schedule Form A

(4) The liability of the members is limited.

(5) The capital of the company is.....dollars divided into.....shares of.....dollars each:

Provided that nothing herein contained shall be deemed to confer upon the company any powers to which the jurisdiction of the Legislature of the Province of Alberta does not extend, and particularly shall not be deemed to confer the right to issue promissory notes in the nature of bank notes; and all the powers in the said memorandum of association contained shall be exercisable subject to the provisions of the laws in force in Alberta and regulations made thereunder in respect of the matters therein referred to, and especially with respect to the construction and operation of railways, telegraph and telephone lines, the business of insurance, and any other business with respect to which special law and regulations may now be or may hereafter be put in force.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	No. of shares taken by each subscriber.
1. John Jones, of merchant	200
2. John Smith, of "	25
3. Thomas Green, of..... "	30
4. John Thompson, of..... "	40
5. Caleb White, of..... "	15
Total shares taken.....	310

Dated the.....day of.....19.....

Witness to the above signatures:

A.B. of.....

FORM B.—Memorandum and Articles of Association of a Company Limited by Guarantee and Not Having a Capital Divided into Shares.

Memorandum of Association.

Second Schedule Form B

(1) The name of the company is "The Western Ranchman's Supply Association, Limited."

(2) The registered office of the company will be situate in
.....

(3) The objects for which the company is established are "the purchasing of all classes of goods, wares and merchandise and supplying the same to the members of the company and the doing all such other things as are incidental or conducive to the attainment of the above objects."

(4) Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member and the costs, charges and expenses of winding up the same for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding dollars:

Provided that nothing herein contained shall be deemed to confer upon the company any powers to which the jurisdiction of the Legislature of the Province of Alberta does not extend, and particularly shall not be deemed to confer the right to issue promissory notes in the nature of bank notes; and all the powers in the said memorandum of association contained shall be exercisable subject to the provisions of the laws in force in Alberta and regulations made thereunder in respect of the matters therein referred to, and especially with respect to the construction and operation of railways, telegraph and telephone lines, the business of insurance, and any other business with respect to which special law and regulations may now be or may hereafter be put in force.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses and descriptions of subscribers.

1. John Jones, of.....merchant.
2. John Smith, of..... "
3. Thomas Green, of..... "
4. John Thompson, of..... "
5. Caleb White, of..... "

Dated the.....day of.....19.....

Witness to the above signatures:

A.B., of.....

Articles of Association to Accompany Preceding Memorandum of Association.

(1) The company for the purpose of registration is declared to consist of five hundred members.

(2) The directors hereinafter mentioned may whenever the business of the association requires it register an increase of members.

Definition of Members.

(3) Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

General Meetings.

(4) The first general meetings shall be held at such time not being more than three months after the incorporation of the company and at such place as the directors may determine.

(5) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6) The above mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary. Second Schedule Form B

(7) The directors may whenever they think fit and they shall upon a requisition made in writing by any five or more members convene an extraordinary general meeting.

(8) Any requisition made by the members shall express the object of the meeting proposed to be called and shall be left at the registered office of the company.

(9) Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition the requisitionists or any other five members may themselves convene a meeting.

Proceedings at General Meetings.

(10) Seven days' notice at the least specifying the place, the day and the hour of meeting and in case of special business the general nature of such business shall be given to members in manner hereinafter provided or in such other manner if any as may be prescribed by the company in general meeting; but the nonreceipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11) All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance sheets and the ordinary report of the directors.

(12) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business; and such quorum shall be ascertained as follows, that is to say: If the members of the company at the time of the meeting do not exceed ten in number the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty and one for every ten additional members after fifty with this limitation that no quorum shall in any case exceed thirty.

(13) If within one hour from the time appointed for the meeting a quorum of members is not present the meeting if convened upon the requisition of the members shall be dissolved. In any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present it shall be adjourned *sine die*.

(14) The chairman if any of the directors shall preside as chairman at every general meeting of the company.

(15) If there is no such chairman or if at any meeting he is not present at the time of holding the same the members present shall choose some one of their number to be chairman at such meeting.

(16) The chairman may with the consent of the meeting adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17) At any general meeting unless a poll is demanded by at least five members a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the company shall be sufficient evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

(18) If a poll is demanded in manner aforesaid the same shall be taken in such manner as the chairman directs and the result of such poll shall be deemed to be the resolution of the company in general meeting.

Votes of Members.

(19) Every member shall have one vote and no more.

(20) If any member is a lunatic or idiot he may vote by his committee, *curator bonis*, or other legal curator or guardian.

(21) No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

(22) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointer or if such appointer is a corporation under its common seal.

(23) No person shall be appointed a proxy who is not a member and the instrument appointing him shall be deposited at the registered office of the company not less than twenty-four hours before the time of holding the meeting at which he proposes to vote.

Second Schedule Table B

(24) Any instrument appointing a proxy shall be in the following form:

.....Company, Limited.

I,....., of....., being a member of the.....Company, Limited, hereby appoint.....of....., as my proxy to vote for me and on my behalf at the (ordinary *or* extraordinary *as the case may be*) general meeting of the company to be held on the..... day of.....:....., and at any adjournment thereof to be held on the.....day of..... next (*or* any meeting of the company that may be held in the year 19.....).

As witness my hand this.....day of.....

Signed by the said.....in the presence of.....

Directors.

(25) The number of directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26) Until directors are appointed the subscribers of the memorandum of association shall for all the purposes of this Ordinance be deemed to be directors.

Powers of Directors.

(27) The business of the company shall be managed by the directors who may exercise all such powers of the company as are not hereby required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

Election of Directors.

(28) The directors shall be elected annually by the company in general meeting.

Business of the Company.

(*Here insert rules as to mode in which business of company is carried on.*)

Notices.

(29) A notice may be served by the company upon any member either personally or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

(30) Any notice if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that a letter containing the notice was properly addressed and put into the post office.

FORM C.—Memorandum and Articles of Association of a Company Limited by Guarantee and Having a Capital Divided into Shares.

Memorandum of Association.

Second Schedule Form C

(1) The name of the company is "The Highland Hotel Company, Limited."

(2) The registered office of the company will be situate in.....

(3) The objects for which the company is established are: "Facilitating travelling in the Territories by providing hotels and conveyances for the accommodation of travellers and the doing all such other things as are incidental or conducive to the attainment of the above object."

(4) Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding.....dollars.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association. Second Schedule Form C

Names, addresses and descriptions of subscribers:
1. John Jones, of.....merchant.
2. John Smith, of..... "
3. Thomas Green, of..... "
4. John Thompson, of..... "
5. Caleb White, of..... "

Dated the.....day of.....19.....
Witness to the above signatures:
A.B., of.....

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

(1) The capital of the company shall consist of.....dollars divided into.....shares of.....dollars each.
(2) The directors may with the sanction of the company in general meeting reduce the amount of shares.
(3) The directors may with the sanction of the company in general meeting cancel any shares belonging to the company.
(4) All the articles of Table A in the schedule to *The Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the company.
We, the several persons whose names and addresses are subscribed, agree to take the number of shares in capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	No. of shares taken by each subscriber.
1. John Jones, of.....merchant.....	200
2. John Smith, of..... "	25
3. Thomas Green, of..... "	30
4. John Thompson, of..... "	40
5. Caleb White, of..... "	15
Total shares taken.....	310

Dated the.....day of.....19.....
Witness to the above signatures:
A.B., of.....

FORM D.—MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMTED COMPANY HAVING A CAPITAL DIVIDED INTO SHARES.

Memorandum of Association.

(1) The name of the company is "The Patent Stereotype Company." Second Schedule Form D
(2) The registered office of the company will be situate in.....
(3) The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates of which method John Smith of.....is the sole patentee."
We, the several persons whose names are subscribed, are desirous of being formed into a company in pursuance of this memorandum of association.

Second Schedule Form D

Names, addresses and descriptions of subscribers:

1. John Jones, of.....merchant.
2. John Smith, of..... "
3. Thomas Green, of..... "
4. John Thompson, of..... "
5. Caleb White, of..... "

Dated the.....day of.....19.....

Witness to the above signatures:

A.B., of.....

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

Capital of the Company.

The capital of the company is.....dollars divided into shares of.....dollars each.

Application of Table A.

All the articles in Table A in the schedule to *The Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the company.

We, the several persons whose names and addresses are subscribed, agree to take the number of shares in the capital of the company set opposite our respective names.

Names, addresses and descriptions of subscribers.	No. of shares taken by each subscriber.
1. John Jones, of.....merchant.....	1
2. John Smith, of..... "	5
3. Thomas Green, of..... "	2
4. John Thompson, of..... "	2
5. Caleb White, of..... "	3
Total shares taken.....	13

Dated the.....day of..... 19.....

Witness to the above signatures:

A.B., of.....

FORM E as required by the Second Part of the Ordinance.

SUMMARY OF CAPITAL AND SHARES of the.....COMPANY made up to the.....day of.....

Nominal Capital $....., divided into.....shares of $.....each.
Number of shares taken up to the.....day of.....
There has been called up on each share $.....
Total amount of calls received $.....
Total amount of calls unpaid $.....

List of persons holding shares in the.....Company on the.....day of.....and persons who have held shares thereon at any time during the year immediately preceding the said.....day of..... showing their names and addresses and an account of the shares so held.

Folio in Register Ledger containing particulars	Names, Addresses and Occupations.				Account of Shares.					Remarks
	Surname	Christian name	Address	Occupation	Shares held by existing members on the day of	Additional shares held by existing members during preceding year		Shares held by persons no longer members.		
						Number	Date of Transfer	Number	Date of Transfer	

Second Schedule Form E

CHAPTER 62.

An Ordinance to Authorize the Changing of the Names of Incorporated Companies.

(C.O., c. 62.)

Repealed, 1901, c. 20, s. 150.

CHAPTER 63.

Foreign Companies Ordinance.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

1. This Ordinance may be cited as "*The Foreign Companies Ordinance* 1903."

1*a*. This Ordinance shall not, after the date on which *The Alberta Insurance Act* comes into force, apply to any foreign company, which on that date is or which subsequently thereto shall be licensed or registered under the provisions of that Act.

INTERPRETATION.

2. In the construction of this Ordinance and of any rules or forms made in pursuance thereof—

1. "Foreign company" shall mean any company or association incorporated otherwise than by or under the authority of an Ordinance of the Territories or otherwise than by or under the authority of the Parliament of Canada for the purpose of carrying on any business to which the legislative authority of the Legislative Assembly of the Territories extends; (1915, c. 2, s. 16);
2. "Registrar" shall mean registrar of joint stock companies and shall include a deputy registrar and acting registrar;
3. "Charter" shall mean the Statute, Ordinance or other provision of law by or under which a foreign company is incorporated and any amendments thereto applying to such company, or the memorandum of association or agreement or deed of settlement of the company or the letters patent or charter of incorporation or the license or certificate of registration of the company as the case may be;
4. "Charter and regulations" shall mean the charter and the articles of association and all by-laws, rules and regulations of of the company.
5. "Court" shall mean the Supreme Court of the North-West Territories;
6. "Judge" shall mean judge of the said court.

3. Unless otherwise provided by any Ordinance no foreign company having gain for its object or a part of its object shall carry on any part of its business in the Territories unless it is duly registered under this Ordinance.

(2) Any company incorporated otherwise than by or under the authority of the Legislature of the Province of Alberta, or of an Ordinance of the North-West Territories prior to the first day of September, 1905, and not registered hereunder, which shall carry on for the purpose of gain any business to which the legislative authority of the Province of Alberta extends, and any person who shall carry on such business as a representative or on behalf of such company shall, on summary conviction, be liable to a

penalty of $50.00 for every day on which such business is carried on in contravention of this Act, and proof of compliance therewith shall at all times be upon the accused.

(3) The taking orders by travellers for goods, wares, or merchandise to be subsequently imported into the Territories to fill such orders, or the buying or selling of such goods, wares and merchandise by correspondence if the company has no resident agent or representative and no warehouse, office or place of business in the Territories the onus of proving which shall in any prosecution under this section rest on the accused shall not be deemed to be carrying on business under the meaning of this Ordinance.

Rights of companies when registered

4. Any foreign company described in schedule B hereto may become registered on compliance with the provisions of this Ordinance, and on payment to the registrar of the fees set out in schedule A hereto, and shall, subject to the provisions of its charter and regulations, and to the terms of registration, thereupon have the same powers and privileges in the province as if incorporated under the provisions of *The Companies Ordinance.*

Fees payable on increased capitalization

(2) Upon any increase in the capitalization of any foreign company described in schedule B hereto, such foreign company shall forthwith notify the registrar by registered post of such increase and of the amount of same, and shall also pay to the registrar the difference (if any) between the fees paid upon registration by such foreign company and the fees payable upon registration by a foreign company having a capital equal to the capital of such company when so increased, and upon default in payment thereof the said foreign company shall be liable on summary conviction to a penalty of $50 for each day on which it carries on business within the province in contravention of this subsection, and proof of compliance with the provisions of this subsection shall at all times be upon the accused.

Powers and privileges of companies when registered

4*a*. Any other foreign company may become registered on compliance with the provisions of this Ordinance, and shall, subject to the provisions of its charter and regulations, and to the terms of registration, thereupon have the same powers and privileges in the province as if incorporated under the provisions of *The Companies Ordinance.*

Annual fee payable

(2) All other foreign companies (save those described in schedule B hereto) shall pay to the registrar an annual fee of fifty dollars during the continuance of their registrations respectively under this Ordinance, such fee to be payable on the first day of January in each year; but in the event of such a foreign company becoming registered after the first day of January in any year, the amount payable to the registrar for such portion of the first year during which it is so registered shall be a proportionate part only of the amount required for one year and such proportionate part shall be so payable upon the registration of the company:

Companies may become registered on payment of fees

Provided, however, that any foreign company whether described in schedule B hereto or not may become registered as aforesaid on payment to the registrar of the fees set out in schedule A hereto, and upon so doing the provisions of this subsection shall not apply to such foreign company.

4*b*. The provisions of section 97*a* of *The Companies Ordinance* shall apply to all companies registered under this Ordinance, and the registrar shall, subject to an appeal to the Lieutenant Governor in Council, have power to refuse to register any company which, in his opinion, has for its object, or one of its objects the undertaking or effecting of any contract of the nature mentioned in that section.

5. Before the registration of any foreign company the company shall file in the office of the registrar—

(*a*) A true copy of the charter and regulations of the company verified in manner satisfactory to the registrar;

(*b*) An affidavit or statutory declaration that the company is still in existence and legally authorized to transact business under its charter;

(*c*) A copy of the last balance sheet of the company or a statement containing the information required to be given in the annual statement made under the provisions of section 8;

(*d*) A duly executed power of attorney under its common seal approved by the registrar empowering some person therein named and residing in the Territories to act as its attorney for the purpose of accepting service of process in all suits and proceedings against the company within the Territories and of receiving all lawful notices and declaring that service of process in respect of such suits and proceedings and of such notices on the said attorney shall be legal and binding to all intents and purposes whatever and waiving all claims of error by reason of such service; and such company may from time to time by a new or other power of attorney executed and deposited as aforesaid appoint another attorney within the Territories for the purposes aforesaid to replace the attorney formerly appointed.

Dominion Insurance companies to have license

5*a*. No foreign company which carries on business of fire, life, guarantee or accident insurance, shall hereafter be registered or carry on business under the provisions of this Act, and no foreign company heretofore registered shall carry on any such business after the first day of January, 1913, or such later date as may be fixed by the Lieutenant Governor in Council, unless and until such company, whether heretofore or hereafter registered, produces evidence satisfactory to the registrar that it is carrying on such business under a subsisting license from the Dominion of Canada, under the provisions of *The Insurance Act*, being chapter 32 of the Statutes of Canada, 1910, or any Act passed in amendment or substitution thereof.

6. Upon compliance by any foreign company with the terms of this Ordinance the registrar shall register such company and issue a certificate of registration; and such certificate of registration shall be conclusive evidence that all the requirements of this Ordinance preliminary to the issue thereof have been complied with.

(2) Such certificate of registration shall be published by the registrar at the expense of the company in the official gazette.

7. The certificate of registration or any copy thereof certified under the hand and seal of the registrar or a copy of the gazette containing such certificate of registration shall be *prima facie* evidence of the due registration of the company as aforesaid.

8. A company registered under this Ordinance shall on or before the first of March in each year during the continuance of such registration make a statement to the registrar verified by affidavit containing as of the thirty-first day of December preceding a summary of the following particulars:

(*a*) The corporate name of the company;
(*b*) The place where the head office of the company is situated;
(*c*) The place or places where or from which the undertaking of the company is carried on;
(*d*) The name, residence and post office address of the preisdent, the secretary and the treasurer of the company;
(*e*) The name, residence and post office address of each of the directors of the company;
(*f*) The date upon which the last annual meeting of the company was held;
(*g*) The amount of the capital of the company and the number of shares into which it is divided;
(*h*) The number of shares subscribed for and allotted;
(*i*) The amount of stock, if any, issued free from call; if none is so issued the fact is to be stated;
(*j*) The amount issued subject to call;
(*k*) The number of calls made on each share;
(*l*) The total amount of calls received;
(*m*) The total amount of calls unpaid;
(*n*) The total amount of shares forfeited;
(*o*) The total amount of shares which have never been allotted or subscribed for;
(*p*) The total amount for which shareholders of the company are liable in respect of the unpaid stock held by them;
(*q*) In a concise form such further information respecting the affairs of the company as the directors may consider expedient.

(2) The summary in the next preceding subsection mentioned shall be verified by the affidavit of the president and secretary; or if there is no president or he is unable to make the same by affidavit of the secretary and one of the directors; or if there is no secretary or he is unable to make such affidavit by the affidavit of the president and one of the directors; or if there is neither a president nor secretary or they are both unable to make such affidavit by the affidavit of two of the directors; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit.

(3) The filing with the registrar of an annual return in the form and at the time and verified in the manner required by the provisions of sections 19 and 20 of *The Insurance Act* being chapter 124 of the Revised Statutes of Canada shall relieve any company licensed under the said Act from compliance with the provisions of subsections (1) and (2) of this section.

(4) The registrar may at any time require the company to supply such further and other imformation as shall seem to him to be reasonable and proper.

(5) Any company making default in complying with the provisions of this section shall be liable on summary conviction to a penalty of $20 for each and every day during which default continues; and every director, manager, secretary, agent, traveller or salesman of such company who transacts within the Territories any business whatever for such company shall be liable on summary conviction to a penalty of $20 for each day upon which he so transacts such business.

(6) The statement or return required by this section shall be accompanied with the fee of $5.

9. If the power of attorney hereinbefore prescribed becomes invalid or ineffectual for any reason or if other service cannot be effected the court or judge may order substitutional service of any process, proceeding, notice or document upon the company to be made by such publication as is deemed requisite to be made in the premises for at least three weeks in at least one newspaper; and such publication shall be held to be due service upon the company of such process, proceeding, notice or document.

10. Any foreign company required by this Ordinance to become registered shall not while unregistered be capable of maintaining any action or other proceeding in any court in respect of any contract made in whole or in part in the Territories in the course of or in connection with business carried on without registration contrary to the provisions of section 3 hereof.

(2) In any action or proceeding the burden of showing that it is registered shall be upon the company.

11. Any foreign company registered under this Ordinance may sue and be sued in its corporate name; and if not prohibited from so doing by its charter and regulations may require and hold lands in the Territories by gift, purchase or as mortgagees or otherwise as fully and freely as private individuals; and may sell, lease, mortgage or otherwise alienate the same.

(2) No foreign company shall be capable of acquiring or holding lands or any interest therein in the province, or of registering any title thereto under *The Land Titles Act* unless duly registered under this Ordinance:

Provided that nothing herein contained shall affect the power of any foreign company to act as trustee under any mortgage or trust deed given to secure any securities guaranteed by the province, or shall affect any mortgage or trust deed so given. 1913, (2nd Session), c. 2, s. 1.

12. Every foreign company registered as a company under this Ordinance shall subject to the provisions of its charter and regulations and of this Ordinance have and may exercise all the rights, powers and privileges by *The Companies Ordinance* granted to and conferred upon companies incorporated thereunder; and every such foreign company and the directors, officers and members thereof shall be subject to and shall, subject as aforesaid, observe, carry out and perform every act, matter, obligation and duty by *The Companies Ordinance* prescribed and imposed upon companies incorporated thereunder or upon the directors, officers and members thereof.

13. No license fee shall be imposed by any municipal council upon any company registered under this Ordinance.

14. Notwithstanding anything heretofore contained in this Ordinance any foreign company holding a license to carry on business in the Territories under the provisions of any Ordinance in that behalf shall upon surrendering such license to the registrar be entitled to be registered under this Ordinance without compliance with any further provisions hereof.

15. The Lieutenant Governor in Council may by order in council, notice of which shall be published in the gazette, suspend or revoke the registration of any foreign company which refuses or fails to keep a duly appointed attorney within the Territories or to comply with any provision of this Ordinance, and notwithstanding such suspension or revocation the rights of creditors of the company shall remain as at the time of such suspension or revocation.

(2) The Lieutenant Governor in Council may likewise by order, notice of which shall be published in the official gazette, remove any such suspension or cancel any such revocation and restore any registration so suspended or revoked.

FORMS.

16. The Lieutenant Governor in Council may prescribe and from time to time alter forms of certificates, powers of attorney, applications, statements, returns and other documents relating to applications and other proceedings under this Ordinance.

17. This Ordinance shall not apply to the corporation known as "The Governor and Company of Adventurers of England trading into Hudson's Bay," nor to any telegraph company or companies incorporated by or under the authority of the Parliament of Canada and operated in connection with a line or lines of railway constructed or operated under the authority of an Act of the Parliament of Canada.

REPEAL.

18. Chapter 63 of The Consolidated Ordinances 1898, intituled *An Ordinance respecting Foreign Corporations*, and chapter 18 of the Ordinances of 1900 amending the same, are hereby repealed.

SCHEDULE A.

FEES PAYABLE ON REGISTRATION.

For companies with a capitalization not exceeding $100,000	$ 75.00
Exceeding $100,000 but not exceeding $200,000	125.00
Exceeding $200,000 but not exceeding $500,000	300.00
Exceeding $500,000 but not exceeding $1,000,000	450.00
Exceeding $1,000,000 but not exceeding $3,000,000	500.00
For every additional $1,000,000 or fractional part thereof over $3,000,000 an additional sum of	100.00

Note.—Also add $5.00 *for advertising.*

SCHEDULE B.

The following companies shall, upon applying to the registrar for registration, be liable for the payment of the fees as prescribed in Schedule A hereto:

Fire and Life Insurance Companies, but not including Mutual Insurance Companies.
Accident Insurance Companies.
Express Companies.
Telephone Companies.
Telegraph Companies.
Trust Companies.
Loan Companies.
Building Companies.
Contracting Companies.
Land Companies.
Ranching Companies.
Gas Companies.
Oil Companies.
Coal Companies.
Implement Companies.

CHAPTER 64.

An Ordinance respecting Mining Companies.

(C.O., c. 64.)

Repealed, 1901, c. 20, s. 150.

CHAPTER 65.

An Ordinance respecting the Manufacture of Butter and Cheese.

(C.O., c. 65.)

Chapter 16, 1907, substituted.

CHAPTER 66.

An Ordinance respecting Benevolent and Other Societies.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Power to form societies for certain purposes

1. Any five or more persons of full age may become incorporated under this Ordinance for any benevolent or provident purpose or for any other purpose not illegal save and except for the purpose of trade or business or any purpose provided for by any of the Ordinances mentioned in the schedule hereto. C.O., c. 66, s. 1.

Mode of incorporation

2. The proceedings to obtain incorporation shall be as follows:

1. Such persons shall make and sign a declaration in writing setting forth the intended corporate name of the society the purpose of the society, the names of those who are to be the first trustees or managing officers, the mode in which their successors are to be appointed and such other particulars and provisions as the society may think fit provided that the said particulars and provisions are not contrary to law;

2. The declaration may be made and signed in duplicate or in as many parts as may be required;

3. The said declaration may be produced to any judge of the Supreme Court of the North-West Territories and if the same appears to him to be in conformity with this Ordinance he shall endorse thereon a certificate to that effect;

4. One of the original parts of the said declaration shall be filed in the office of the registrar of the said Supreme Court at Edmonton and the fee of fity cents shall accompany such filing; all such declarations heretofore filed in the office of the registrar of the Supreme Court at Edmonton shall be deemed, for all purposes, to have been, at the time of such filing, filed in accordance with the provisions of this Ordinance. 1911-12, c. 4. s. 4.

5. When these directions shall have been complied with the persons who signed the declaration shall thereby become and they, their associates and successors, shall thenceforward be a body corporate and politic and shall have the powers, rights and immunities vested by law in such bodies. C.O., c. 66, s. 2.

Societies may establish branches

3. The society so incorporated may from time to time have or establish and maintain any number of branches thereof to promote the objects of the society. C.O., c. 66, s. 3.

Officers

4. The society may from time to time appoint trustees, a treasurer, a secretary and other officers for conducting its affairs and for the discipline and management of the society and may from time to time make by-laws, rules and regulations for the

By-laws and rules

government and for conducting the affairs of the society or of any branches thereof; and may from time to time alter or rescind such by-laws, rules or regulations. CO., c. 66, s. 4.

Different societies or branches may unite

5. Any two or more societies or branches of a society may unite and form one society or branch for the purpose of erecting buildings for the use of the societies or branches and, if they so desire, for other purposes, on such terms as may be agreed upon by authority of a resolution assented to by a majority of the members of each of the said societies or branches proposed to be united:

Provided that every such resolution is passed at a general meeting of each of the societies or branches concerned in such union, to be specially called for that purpose. C.O., c. 66, s. 5.

Liability of persons under age

6. A person under the age of twenty-one years, elected or admitted as a member of a society, or appointed to any office therein, shall be liable to the payment of fees and otherwise under the rules of the society as if he were of full age. C.O., c. 66, s. 6.

Benefits to members

Exemption from claims of creditors

7. When under the rules of the society money of the society becomes payable to or for the use or benefit of a member thereof such money shall be free from all claims by the creditors of such member; and when on the death of a member of a society any sum of money becomes payable under the rules of the society, the same shall be paid by the treasurer or other officer of the society to the person or persons entitled under the rules thereof or shall be applied by the society as may be provided by such rules; and such money shall be, to the extent of $2,000, free from all claims by the personal representative or creditors of the deceased and in case any sum is paid in good faith to the person who appears to the treasurer or other officer to be entitled to receive the same, or is applied in good faith for the purposes by the rules provided, no action shall be brought against the society or such treasurer or officer in respect thereof; but nevertheless if it subsequently appears that such money has been paid to the wrong person the person entitled thereto may recover the amount with interest from the person who has wrongfully received it. C.O., c. 66, s. 7.

Payment in good faith to wrong person

Powers of societies as to holding lands

8. No society or branch incorporated under this Ordinance shall be entitled to acquire or hold as purchasers or otherwise any lands or tenements or any interests therein exceeding in the whole at any one time the annual value of $5,000 nor shall the society or branch be entitled to purchase land except for the actual use and occupation of the society for the purposes of the society. C.O., c. 66, s. 8.

Powers as to taking and retaining lands by gift, devise or bequest

9. Any such society or branch may from time to time take by gift, devise or bequest any lands or tenements or any interests therein, provided such gift, devise or bequest is made at least six months before the death of the person making the same; but the society or branch shall at no time take by gift, devise or bequest, lands or tenements, or any interests therein, the annual value of which, together with that of all other lands and tenements theretofore acquired by like means and then held by the society or branch, exceeds in the whole $1,000; nor shall the society or branch at any time take by gift, devise or bequest, lands, tenements or hereditaments the annual value of which,

together with all the other real estate of the society or branch, exceeds $5,000; and no lands or tenements acquired by gifts, devise or bequest within the limits aforesaid, but not required for the actual use or occupation of the society or branch, shall be held by the society or branch for a longer period than seven years after the acquisition thereof, and within such period the same shall be absolutely disposed of by the society or branch; and the society or branch shall have power within such period, in the name of the society or branch, to grant and convey the said lands and tenements to any purchaser so that the society or branch no longer retains any interest therein; and the proceeds on such disposition shall be invested in public securities, municipal debentures or other approved securities, not including mortgages on land, for the use of the society or branch; and lands, tenements or interests therein required by this Ordinance to be sold or disposed of by the society or branch which have not, within the said period, been so disposed of, shall revert to the person from whom the same were acquired, his heirs, executors, administrators or assigns. C.O., c. 66, s. 9.

Powers to sell, mortgage, etc., lands

10. Any society may in pursuance of a resolution assented to by a majority of the members present at a general meeting specially called for that purpose, of which public notice shall be given in the manner provided by the by-laws, mortgage, sell, exchange or lease any lands of the society. C.O., c. 66, s. 10.

Copy of declaration of incorporation to be evidence

11. A copy of the declaration under the second section of this Ordinance certified by the registrar of the said Supreme Court or his deputy to be a true copy shall be *prima facie* evidence of the facts alleged in the declaration and of the due making, signing and filing of the declaration as mentioned in the certificate; and a copy of the declaration with a certificate of the said registrar or his deputy showing the particulars necessary for creating a corporation under this Ordinance, shall be *prima facie* evidence that the society or branch is an incorporated society or branch under this Ordinance. C.O., c. 66, s. 11.

Defects in form

12. No defect of form in the certificate of the judge or in the proceedings to which the certificate of the judge relates shall affect the validity of the incorporation. C.O., c. 66, s.12.

Certificate of incorporation, its effects as evidence

13. To facilitate the proof of a society or branch being an incorporated society or branch under this Ordinance and to prevent any future question as to the same, the society or branch after the same has become incorporated as aforesaid, shall be entitled (if the society or branch thinks fit) to receive a certificate of such incorporation in manner hereinafter mentioned; and a certificate so obtained shall be final and conclusive evidence of the society or branch being an incorporation under this Ordinance unless the certificate on the order or decision of the court granting or authorizing the same is reversed or set aside by some direct proceeding taken for the purpose; and the proceedings for the purpose of obtaining the certificate may be as follows:

Application for certificate

1. The application for the certificate may be made by the society or branch to a judge of the Supreme Court of the North-West Territories.

Evidence thereon

2. The application shall be supported by satisfactory evidence that the society or branch is a society or branch within the true intent and meaning of this Ordinance; that the proceedings necessary for incorporation have been duly taken; that four weeks' notice of the intention to apply for a certificate has been given to the Lieutenant Governor of the Territories; and that a like notice has been published for four weeks in *The North-West Territories Gazette* and if the judge is not satisfied with the evidence offered of these particulars in the first instance he may instead of dismissing the application give an opportunity or opportunities for producing further evidence; and if there is any defect in the proceedings taken to obtain incorporation the judge may permit the same to be supplied and he may in all cases require from time to time any further publication to take place, and any other notice to be mailed, served or given which he deems necessary.

Issue of certificate

3. When the judge is satisfied that the society or branch is entitled to the certificate, the certificate may be issued by the clerk of the court of the judicial district in which the application is made, in duplicate (under his hand and the seal of the court) or in as many parts as may be required and the same shall name the day from and at which the incorporation was complete and effectual, and any person shall thereafter be entitled to receive a certificate to the same effect sealed and signed as aforesaid; which certificate or counterpart thereof shall be final and conclusive as hereinbefore mentioned.

Costs and practice

4. The judges of the Supreme Court of the North-West Territories shall have power to regulate the practice and costs in such cases. C.O., c. 66, s. 13.

Society to furnish statement of real property

14. It shall be the duty of the corporation when thereunto required by the Lieutenant Governor in Council or by the Legislative Assembly to furnish a statement of the real property and of the estates therein held by the society and to give such details thereof as the Lieutenant Governor in Council or the Legislative Assembly may from time to time require. C.O., c. 66, s. 14.

Change of name, etc., of society

15. When a society incorporated under the provisions of this Ordinance is desirous of changing its name or of changing any of the purposes contained in the original certificate or declaration of incorporation, a judge of the Supreme Court upon being satisfied that the change desired is not for an improper purpose and is not otherwise objectionable, may make an order reciting the certificate and declaration of incorporation and making the change desired.

Order to be filed

(2) Such order shall be filed in the office in which the certificate and declaration were filed and a copy of the order certified by the registrar of the Supreme Court at Edmonton or his deputy to be a true copy of the order filed in the said office shall be *prima facie* evidence of the change having been made as therein set forth.

Rights and obligations of society not affected

(3) No change under the next preceding two subsections shall affect the rights or obligations of the society and all actions or proceedings commenced by or against the society prior to the change of name may be proceeded with by or against the society under its former name. C.O., c. 66, s. 15.

Forms

16. In case the Lieutenant Governor in Council adopts or approves of any forms for any of the proceedings under this Ordinance and the order adopting or approving of the same is, with the forms, printed in *The North-West Territories Gazette* such forms shall be as effectual for the purposes mentioned in this Ordinance or in the order in council as if the said forms had been inserted in this Ordinance. C.O., c. 66, s. 16.

SCHEDULE.

Ordinances for purposes not intended by this Ordinance:
1. Chapter 38 of The Consolidated Ordinances.
2. Chapter 45 of The Consolidated Ordinances.
3. Chapter 61 of The Consolidated Ordinances.
4. Chapter 65 of The Consolidated Ordinances.
5. Chapter 68 of The Consolidated Ordinances.
6. Chapter 69 of The Consolidated Ordinances.

CHAPTER 67.

An Ordinance respecting Mechanics' and Literary Institutes.

(C.O., c. 67.)

Chapter 16, 1908, substituted.

CHAPTER 68.

An Ordinance respecting Cemeteries.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Cemetery Ordinance.*" C.O., c. 68, s. 1. Short title

INCORPORATION OF COMPANIES.

2. All companies formed under the provisions of chapter 24 of The Revised Ordinances 1888, intituled *An Ordinance to incorporate Companies for the Establshmeat of Cemeteries,* or of any amendment thereto, in existence as such are hereby continued as bodies politic and corporate and they shall be subject to the provisions of this Ordinance. C.O., c. 68, s. 2. Continuation of companies

3. Any number of persons, not less than ten may form themselves into a company for the purpose of establishing one or more public cemeteries outside the limits of any town or village or within such limits if permission be given by by-law of such town or village for such establishment within its limits, who have— Conditions of incorporation

(*a*) Subscribed stock to an amount adequate to the purchase of the ground required for such cemetery; and

(*b*) Executed an instrument according to the form in the fifth section of this Ordinance contained; and

(*c*) Paid to the treasurer of the proposed company twenty-five per cent. of the capital stock intended to be raised; and

(*d*) Deposited such instrument, or a duplicate thereof, together with a receipt from the treasurer for the first instalment of twenty-five per cent., in the office of the Territorial Secretary. C.O., c. 68, s. 3.

4. Notice of the formation of the proposed company shall be forthwith given by the Territorial Secretary in the official gazette setting forth the name of the said company and the persons constituting the same and from and after the date of the publication of such notice the persons therein named and their successors shall be a body corporate and politic under the name mentioned therein and as such body corporate and politic shall have all rights and be subject to all the liabilities of a corporation and shall have full power to acquire, hold and alienate both real and personal estate for all the purposes of the company. C.O., c. 68, s. 4. Territorial Secretary to receive notice of proposed formation of company

Powers

5. The instrument referred to in section 3 of this Ordinance may be in the form following: Form of instrument

"Be it remembered that on this.....day of..... in the year of Our Lord one thousand.....; we, the undersigned shareholders met at.....in the North-West Territories and resolved to form ourselves into a cemetery company to be called The.....Cemetery Company under the provisions of *The Cemetery Ordinance;* and we do hereby agree that the capital stock of the said company shall be.....dollars to be divided into shares of.....dollars each entitling the holder to one hundred superficial feet; and we the undersigned shareholders do hereby agree to accept and take the number of shares set by us opposite our respective signatures; and we do hereby agree to pay the calls thereon according to the provisions of the said Ordinance and the rules and regulations and by-laws of the company to be made in that behalf.

NAME	NO. OF SHARES	AMOUNT

C.O., c. 68, s. 5.

TRUSTEES OF RELIGIOUS BODIES.

Continuation of trustees

6. Trustees appointed under the provisions of Ordinance No. 5 of 1892, intituled *An Ordinance respecting the Holding of Cemeteries in Trust for Religious Bodies*, and in existence at the time of the coming into force hereof are hereby continued and shall be subject to the provisions of this Ordinance affecting trustees appointed hereunder. C.O., c. 68, s. 6.

Organization of board of trustees

7. When any one or more religious societies or congregations in the Territories desire to take a conveyance or transfer of land for the purpose of establishing a cemetery for the use of such society or congregation or for the use in common of such societies or congregations such society or congregation or societies or congregations as the case may be, may appoint trustees to whom and their successors to be appointed in such manner and subject to such regulations as may be specified in the deed of conveyance or transfer, the land requisite for the purposes aforesaid may be conveyed and such trustees and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein:

Land to be outside town

Provided that such land shall not be within the limits of a town unless permission be given by by-law of the said town for such establishment within the limits. C.O., c. 68, s. 7.

8. If the deed of conveyance or transfer of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the society or congregation or societies or congregations for whose use such land is held may enter into an agreement with each other in writing in such manner as may seem to them best and such agreement shall specify the manner in which the successors of the trustees for the term then being are to be appointed and such agreement endorsed on or annexed to a certified copy of the transfer or deed of conveyance under which the land is held for the use of the said society or congregation or societies or congregations and signed by the accredited agents of such society or congregation or societies or congregations shall govern and regulate the manner in which the successors of the trustees named in the original grant, conveyance or transfer shall be appointed and the regulations to which they shall be subject. C.O., c. 68, s. 8. Appointment of successors to trustees

9. Such trustee shall within twelve months after the execution of the deed of conveyance or transfer cause the deed or transfer to be registered in the land titles office of the land registration district within which the land is situated, otherwise the said deed shall be void. C.O., c. 68, s. 9. Transfer of land to be registered

10. The trustees and their successors shall thenceforth hold and convey the land for the purpose exclusively of a cemetery or place for the burial of the dead. C.O., c. 68, s. 10. Purposes of land

PROVISIONS AFFECTING COMPANIES.

11. From and out of the proceeds of the sales of burial sites made by the company the company may pay to its shareholders who may not desire to take land in the cemetery to the full extent of the stock subscribed and paid for by them interest on their paid up stock not represented by land in the cemetery at such rate as may be agreed on not exceeding eight per centum per annum and may also repay to such shareholders the amount of paid up stock held by them not represented by land in the cemetery. Interest on paid up stock

(2) Every such shareholder of the said company shall be taken to be a shareholder and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company held by him and fully paid up and which are not represented by land in the cemetery until such shares are repaid to him by the company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share. Rights of shareholders

(3) Except as aforesaid no dividend or profit of any kind shall be paid by the company to any member thereof. C.O., c. 68, s.11. When no dividend payable

12. Subject to the provisions in the preceding section contained one-half of the proceeds of all sales of burial sites made by the company shall be first applied to the payment of the purchase money of the land acquired by the company and the residue to preserving, improving and embellishing the land as a cemetery and to the incidental expenses of the company; and Application of proceeds of sale

after payment of the purchase money the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof, and to no other purpose whatever. C.O., c. 68, s. 12.

Owner of lot a shareholder

13. Every proprietor of a lot in the cemetery containing not less than one hundred superficial feet and who has paid twenty-five per cent. or more of the price of the lot shall be deemed a shareholder in the company and every such lot shall be deemed a share in the company. C.O., c. 68, s. 13.

Qualification of directors

14. Every shareholder who has paid to the company not less than $5 in all on his share or shares shall be eligible as a director. C.O., c. 68, s.14.

Size of lots Rights of owners

15. The company may sell a lot of any size, but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof. C.O., c. 68, s. 15.

Board of directors

16. The affairs and property of the company shall be managed by three directors a majority of whom shall form a quorum. C.O., c. 68, s. 16.

Choice of directors

17. The first directors shall be chosen by ballot from among the subscribers to the instrument creating the company; and thereafter the directors shall be annually elected by the shareholders on the first Monday in June in every year. C.O., c. 68, s. 17.

Qualification of shareholders to vote

18. Upon every election of directors, including the first, every shareholder shall be entitled to one vote for every share he holds or is possessed of up to ten and one vote for every five shares above ten; but no shareholder shall vote unless he has paid at least $2 upon each share upon which he votes. C.O., c. 68, s. 18.

President

19. The directors or a majority of them shall at their first meeting elect one of their number to be president of the company and the president if present or, if he is not present, then some director chosen for the occasion shall preside at every meeting of the directors and shall not vote except in case of an equality of votes when he shall have a casting vote. C.O., c. 68, s. 19.

Calls on stock

20. The directors may also call for instalments on the sums subscribed for and may appoint a time for the payment thereof and if the same are not then paid the right of the subscriber and every instalment formerly paid shall be forfeited and he shall be held not to have subscribed unless the directors think it expedient to remit the forfeiture which they may do if the instalments are paid with interest within one year after the day when they ought to have been paid. C.O., c. 68, s. 20.

Forfeiture for nonpayment

Records

21. The directors shall record in a book kept for the purpose all their by-laws and proceedings, and every shareholder shall

have access to such book for the purpose of searching and making extracts therefrom, without payment of any fee. C.O., c. 68, s. 21.

Exclusive reservation

22. The directors may reserve for the exclusive use of any religious society or congregation such part of the cemetery and upon such terms and conditions as may be agreed upon. C.O., c. 68, s. 22.

Graves for strangers and poor

23. The company shall furnish graves for strangers and for the poor of all denominations free of charge on the certificate in the latter case of a minister or clergyman of the denomination to which the deceased belonged, that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. C.O., c. 68, s. 23.

(2) Any cemetery company which refuses or neglects to furnish graves for strangers and for the poor as mentioned in subsection 1 hereof shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $50.00. 1913 (2nd Session), c. 2, s. 6.

GENERAL PROVISIONS.

Walls and fences

24. The company shall within two years from its incorporation and the trustees shall within two years from their appointments by walls or other fences inclose every part of the cemetery held by them. C.O., c. 68, s. 24.

Repair of property

25. The company or trustees as the case may be shall keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition. C.O., c. 68, s. 25.

Drains and sewers

26. The company or trustees as the case may be shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and they may from time to time as occasion requires cause any such sewer or drain to open into an existing sewer with the consent in writing of the persons having the management of the street or road, and with the like consent of the owner or occupier of the land through which or part of which the opening is intended to be made doing as little damage as possible to the street, road or land wherein the same is made and restoring it to the same or as good condition as it was in before being disturbed. C.O., c. 68, s. 26.

Penalty for fouling water

27. If the company or trustees as the case may be at any time cause or suffer to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place any offensive matter from the cemetery whereby the water is fouled the company or trustees as the case may be shall forfeit for every such offence $500. C.O., c. 68, s. 27.

Suit for penalty

Limitation of action

28. The said penalty with full costs of suit may by a civil action in any court of competent jurisdiction be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence or within six months after it has ceased. C.O., c. 68, s. 28.

Further penalty

29. In addition to the penalty of $500 (and whether the same has been recovered or not) any person having a right to use the water may sue the company or trustees as the case may be in a civil action for any damage specially sustained by him by reason of the water being fouled or if no special damage is alleged then for the sum of $10 for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company or trustees as the case may be. C.O., c. 68, s. 29.

No grave near buildings

30. No body shall be buried in a vault or other space under any chapel or other building in the cemetery nor within fifteen feet of the outer wall of any such chapel or building. C.O., c. 68, s. 30.

Proper conduct of funerals

31. The company or trustees as the case may be shall make regulations to ensure all burials within the cemetery being conducted in a decent and solemn manner. C.O., c. 68, s. 31.

Exemption from taxes

32. The real estate of the company or trustees and the lots or plots when conveyed by the company or trustees to individual proprietors for burial sites shall be exempt from taxation of any kind and shall not be liable to be seized or sold under execution. C.O., c. 68, s. 32.

By-laws

33. The directors of the company may pass by-laws and the trustees may frame regulations for the laying out, selling and management of the cemetery and for regulating the erection of tombs, monuments and gravestones therein; and the directors of the company may pass by-laws empowering the president to execute conveyances of plots to shareholders. C.O., c, 68. s. 33.

Record of regulations and burials

34. The directors shall keep a record of the by-laws and the trustees shall keep a record of the regulations referred to in the next preceding section and the directors and trustees respectively shall also keep a separate record of all burials showing name, age, occupation and date of burial of all persons buried within the cemetery and in case they cannot get all the particulars a note of such must be made in the margin and every person shall have access to such last mentioned record for the purpose of searching and making extracts therefrom without payment of any fee. C.O., c. 68, s. 34.

Penalties

35. Any person who in a cemetery established under this Ordinance—

(*a*) Plays any game or sport; or

(*b*) Discharges firearms (save at a military funeral); or who

(*c*) Commits a nuisance therein;

shall on summary conviction thereof be liable to a fine not exceeding $100 and costs of prosecution. C.O., c. 68, s. 35.

Liability of trustees

36. The trustees shall be personally liable for any judgment recovered against them as trustees. C.O., c. 68, s. 36.

CHAPTER 69.

An Ordinance respecting Agricultural Societies.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Agricultural Societies Ordinance.*" Short title

INTERPRETATION.

2. In this Ordinance, unless the context otherwise requires— Interpretation

1. The expression "department" means the Department of Agriculture;

2. The expression "Minister" means the Minister of Agriculture;

3. The expression "society" means any Agricultural Society organized or continued under this Ordinance.

OBJECTS OF AGRICULTURAL SOCIETIES.

3. The objects of a society shall be to encourage improvement in agriculture, horticulture, arboriculture, manufactures and the useful arts— Objects of societies

1. By holding meetings for the delivery of lectures and for the discussion of subjects connected with the theory and practice of any of the said industries;

2. By promoting the circulation of agricultural, pastoral, horticultural, arboricultural and mechanical periodicals, and by the formation and maintenance of a reference library on such subjects for the use of its members;

3. By importing and otherwise procuring seeds, plants and animals of new or valuable kinds;

4. By holding exhibitions as hereinafter provided at which prizes may be awarded for—

(*a*) Excellence in the raising or introduction of live stock;

(*b*) The invention or improvement of agricultural machines or implements;

(*c*) The production of grains and all kinds of vegetables, plants, flowers and fruits, home manufactures and works of art; and generally for excellence in any agricultural production or operation;

5. By offering prizes for essays on subjects relating to agriculture, including the prevention of prairie fires and the eradication of noxious weeds;

6. By taking action to eradicate poisonous and noxious weeds and to exterminate such animals as are found to injure or impede agriculture;

7. By carrying on experiments in the growing of crops, the feeding of stock or any other branch of agriculture or by testing any system of farming;

8. By affiliating and co-operating with associations organized to improve live stock or encourage grain growing, dairying, forestry or fruit growing, or promote the study of plant life or the destruction of injurious insects and plants.

Expenditure of funds

4. The funds of agricultural societies, howsoever derived, shall not be expended for any objects inconsistent with those authorized by this Ordinance.

(2) Such funds shall be deposited from time to time to the credit of the society in a chartered bank or other banking house; and all cheques shall be signed by the president or a vice-president and the treasurer or secretary-treasurer of the society.

EXISTING SOCIETIES CONTINUED.

Existing societies

5. All agricultural societies established and in operation at the time of the coming into force of this Ordinance shall be continued as agricultural societies under and subject to the provisions of this Ordinance and the present officers of such societies shall continue to hold office as such until the next annual meeting of the society.

ORGANIZATION OF SOCIETIES.

Organization

6. An agricultural society may be formed under the provisions hereof in the following manner:

1. An application in form A in the schedule hereto and containing the information indicated as required thereby shall be signed by not less than fifty persons all being over eighteen years of age and residents of the Province of Alberta and not being members of any other agricultural society; 1913 (2nd Session), c. 2, s. 3.

2. Every person signing the said application shall pay at least one dollar as or as part of his first annual subscription to the funds of the proposed society and such moneys shall be paid to and be held by one of the subscribers in trust for the society;

3. The application shall be verified by an affidavit of one of the subscribers in the form appended to said form A;

4. The application so verified shall be transmitted to the Minister, who, if he approves thereof, shall declare the subscribers thereto to be organized into a society under the name of "The Agricultural Society," and shall issue a certificate of such organization in form B in the schedule hereto and thereupon the society shall be deemed to be formed and it shall be a corporation and in addition to its other rights as such it shall have the power to hold real estate necessary for the objects of the society; but any society may, subject to the permission of the Minister, change its name at any time;

5. A new society shall not be formed unless the chief place of business for the proposed society is at least fifteen miles distant from any existing society in the province; 1913 (2nd Session), c. 2, s. 3;

6. The annual exhibition must be held at the chief place of business as specified in the certificate of organization.

First meeting of members

7. As soon as practicable after the formation of the society a meeting of the subscribers and of such other persons as may

desire to become members thereof, which shall be the first annual meeting of the society, shall be held at the call of such person as the Minister may nominate for that purpose and at such time and place and with such prior public notice as he may direct.

Report to be sent to department

8. A report of the said meeting certified by the president and secretary which shall contain a statement of the number of members and a list of the officers elected and appointed shall be sent by the secretary to the department within one week after the meeting.

MEMBERSHIP.

Persons eligible for membership

9. Any person who would have been qualified to sign an application for the formation of a society may become a member thereof at any time on payment to the treasurer of a membership fee of not less than one dollar.

(2) Payment of the said fee shall entitle the person paying it to the privileges of membership for the year for which it is paid.

(3) At the time of payment of his membership fee every member shall give to the treasurer the post office address to which all notices of meetings and other notices shall be sent.

(4) Subject to the by-laws of the society a firm or an incorporated company may become a member of any society by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company and that person only shall exercise the privileges of membership in the society.

SUPERINTENDENT OF FAIRS.

Officers appointed by Minister

10. The Minister may from time to time appoint a superintendent of fairs and institutes and such other officers as may be required to carry out the provisions of this Ordinance and may appoint an inspector to examine the books and accounts of any society and may confer on him any or all of the powers which may be conferred on a Commissioner appointed under the provisions of *An Act respecting Inquiries Concerning Public Matters.* 1913 (2nd Session), c. 2, s. 3.

OFFICERS OF SOCIETY.

Officers

11. The officers of the society shall consist of a president and two vice-presidents who shall be *ex officio* directors, and nine, twelve or fifteen additional elected directors as may be determined by the society, a secretary and a treasurer or a secretary-treasurer and one auditor, who shall be an official auditor.

Qualification of voters and officers

12. The persons qualified to vote for officers or to be elected shall be only those members who have paid their membership fee for the ensuing year. To enable persons to join, the secretary shall be present at the place appointed for holding such annual meeting one hour previous to the hour set for holding such annual meeting for the purpose of receiving membership fees.

Officers to be elected at first annual meeting

13. At the first annual meeting all of the officers except the secretary and the treasurer or the secretary-treasurer shall be elected by ballot.

Term of office of president elected at first meeting

14. The president, vice-presidents, directors and auditors elected at the first or any subsequent annual meeting shall hold office until the next following annual meeting.

Secretary-treasurer

15. The board of directors may from time to time appoint a secretary and a treasurer or a secretary-treasurer who may be a director or directors and who shall hold office during pleasure.

Security to be given by treasurer

16. The secretary and the treasurer or the secretary-treasurer of any society or exhibition association, within one month after his appointment, shall furnish a bond for such an amount as the directors may deem sufficient, and such bond shall be renewed yearly and shall be sent to the Minister.

(2) No grant shall be paid to any society or exhibition association under this Ordinance unless and until the said bond has been forwarded to the Minister. 1913 (2nd Session), c. 2, s. 3.

Vacancy in office

17. In the event of an officer of an agricultural society dying or resigning office, or in any other way vacating his office during the period for which he has been elected, the board of directors shall appoint an eligible person to fill the office for the unexpired term of the person so vacating office.

Minister may call meetings, etc., in certain [illegible]

18. If at any time there shall be no officers of a society or if there is an insufficient number of officers and they do not act the Minister may authorize any person to call a meeting of the society for any purpose or to take such other action as the Minister may deem proper in the interests of the society.

MEETINGS OF SOCIETY.

Annual meeting of society

19. Every agricultural society shall hold its annual meeting on the first Wednesday in the month of December in each year at the hour of two o'clock in the afternoon and at such a place as may be decided upon by the board of directors:

Provided that should the first Wednesday be a holiday, the annual meeting shall be held on the following Thursday afternoon.

(2) The work for the year of the agricultural societies shall close three days prior to the date of the annual meeting.

Notice of annual meeting

20. At least two weeks' previous notice of the time and place of holding an annual or other meeting of a society shall be given by the secretary by written or printed notice mailed to each member of the society, and such additional notice as the directors may decide.

Substituted meeting

21. In case any society shall, through any cause, fail to hold its annual meeting within the time appointed the Minister may appoint a time for holding the same, and the meeting shall be called by the secretary, or by some person appointed for that purpose by the Minister in the same way as the regular annual meeting and this meeting shall in all particulars be taken as the annual meeting of the society.

22. The following shall be the order of business at annual meetings of agricultural societies: Order of business

(1) Reading minutes of previous meeting.
(2) Addresses and reports of officers.
(3) Reports of committees.
(4) Unfinished business.
(5) New business.
(6) Addresses and discussions.
(7) Election of officers.
(8) Adjournment.

23. The board of directors shall at the annual meeting present— Reports of board of directors

(*a*) A report of their proceedings for the year with such remarks and suggestions upon the state of agricultural development in the district as they may see fit to offer;
(*b*) A statement showing the name, occupation and post office address of each member with the amount of his subscription to the society for the year opposite the name;
(*c*) A detailed statement of the receipts and expenditure of the society for the current financial year certified by the auditor;
(*d*) A statement of the assets and liabilities of the society certified by the auditor;
(*e*) A statement showing the amount offered and also the amount actually paid in prizes for each kind of live stock, agricultural and domestic products, manufactured articles or other objects respectively and the number of entries in each class;
(*f*) A report of each meeting held for the discussion of agricultural subjects giving the names of the speakers, the subjects of their addresses and the number of the persons present;
(*g*) A report upon any co-operative agricultural experiments carried out under the instructions of the department during the year.

24. Meetings of the society other than the annual meeting may be held at any time that the board of directors may determine. Other meetings

MEETINGS OF DIRECTORS.

25. Directors' meetings shall be held upon written notice mailed by the secretary to each officer under instructions from the president, or in his absence from a vice-president at least ten days before the day appointed for such meeting. Directors' meetings

QUORUM.

26. Ten members shall constitute a quorum at a meeting of the society and five directors at a meeting of the directors. Quorum

RETURNS.

27. A list of the officers elected at the annual meeting and a copy or summary of each report and statement presented thereat shall be transmitted to the department by the secretary Reports, etc., to be transmitted to department

upon the forms provided for the purpose on or before the twenty-third day of December in each year and in case these particulars are not transmitted from any agricultural society within this date it shall not receive any portion of any provincial legislative grant unless the Minister is satisfied by the explanations given that such delay was unavoidable or inadvertent in which case he may pay the grant which such society would be entitled to after deducting the sum of five dollars for each week of such delay. 1913 (2nd Session), c. 2, s. 3.

BY-LAWS.

By-laws and regulations

28. The members of each society may at an annual meeting or at a special meeting called for that purpose make, alter and repeal by-laws and regulations for the general management of the society and subject to such by-laws the board of directors shall have full power to act for and on behalf of the society and all grants and other funds of the society shall be received and expended under their direction.

(2) A copy of such by-laws and regulations shall be forthwith transmitted by the society to the department.

REAL ESTATE.

Disposal of lands

29. A society organized under the provisions of this Ordinance shall have power to acquire and hold such real estate in the province as is necessary for the purpose of carrying out the objects for which it is formed, but the directors shall not sell, mortgage, lease for over a year or otherwise dispose of any real property owned by the society, unless authorized to do so at a special meeting of the society, called for the purpose, of which at least a month's notice shall be given in the manner provided for calling such meetings. 1907, c. 5, s. 16.

(2) The notice calling such special meeting shall state the object for which the meeting is called.

EXHIBITIONS.

Exhibitions

30. An exhibition may be held by any agricultural society, board of management, or any company organized for the purpose at such time and place as may be decided upon by the directors at a meeting called for that purpose.

Prize list to be sent Minister

31. If a society, board of management or any company organized for the purpose shall propose to hold an exhibition at which prizes are to be awarded the prize list shall be sent to the Minister at least six weeks before the date upon which the exhibition is to be held.

Union of societies for holding exhibitions

32. Two or more societies may by agreement between their respective boards of directors unite their funds or any portion thereof for the purpose of holding a joint agricultural or live stock exhibition.

Joint board of management

(2) In the case of such amalgamation the directors of the said societies or delegates appointed for such purpose by each board of directors shall meet and shall elect from among their number a president and first and second vice-presidents, a

secretary-treasurer and at least eight persons who, with the officers so elected, shall be a board of management and shall have the charge and management of the exhibition so to be held.

(3) The directors or delegates and members of the board of management shall at all meetings have the right to vote in person or proxy. Directors voting

(4) One or more auditors shall be appointed at the meeting of the directors or delegates to examine and report on the accounts of such board of management and such report shall be presented by the directors of each society taking part in the joint exhibition at the next annual meeting of their society. Auditors of joint board

GRANTS.

33. There may be paid out of any moneys appropriated by the Legislative Assembly for the aid of agricultural societies an amount to be calculated as follows: Payment of grants

1. To each society whose membership is shown to include at least fifty members who have paid their fees up to the date of the annual meeting, which has held during the preceding year at least two meetings, as provided in clause 1 of section 3 of this Ordinance, the sum of one dollar for each paid up member up to 150:

Provided that when a society has taken a part in the holding of a short course school or train school which in the opinion of the Minister is equivalent to the holding of the two meetings provided for in clause 1 of section 3 of this Ordinance the grant shall be paid notwithstanding the fact that the said two meetings have not been held; and in the event of the society holding the said two meetings and also taking such part in the short course school or train school as the Minister deems equivalent to the holding of the said two meetings, in any one year, the grant may be paid in respect of the part taken in the short course school or train school, and it shall not be necessary for the society to hold, during the year next following, the two meetings or to take part in the short course school or train school in order to receive the grant;

2. To each society which has during the preceding year undertaken co-operative agricultural experiments under the direction of the department, filed the returns required and complied with the instructions furnished in connection therewith, the sum of $5 for each experiment selected and carried out;

3. To each society holding an exhibition and to any incorporated company or board of management of a joint exhibition holding an exhibition and filing in the department on or before the twenty-third day of December following a return furnishing in respect of such exhibition the same information as is required of a society by clauses (*c*), (*d*) and (*e*) of section 23, whose total expenditure for prizes at such exhibition exceeds $250 an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out for such prizes, but not exceeding the sum of $3,000; provided that the Minister may withhold payment in respect to any prize offered which in his opinion is not calculated to promote the legitimate objects of an agricultural exhibition; and provided also that no incorporated company that permits voting by proxy or allows more than one vote to be exercised

by each shareholder irrespective of the number of shares owned or controlled by such shareholder shall be entitled to any grant under this clause: 1907, c. 5, s. 16.

Provided further that for good cause shown, the Lieutenant Governor in Council may extend the time for filing the returns herein required to be filed: 1907, c. 5, s. 16.

Provided further that the Lieutenant Governor in Council may, if he deem proper, make a special grant to any society which has actually held an exhibition, but which has failed to comply strictly with all the requirements of this section, of an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out by such society for prizes at such exhibition;

4. To each agricultural society or association of individuals holding a seed grain fair and filing in the department a return furnishing in respect to such fair the same information as is required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to the amount actually paid out for prizes at such fair but not exceeding the sum of $100; 1907, c. 5, s. 16.

5. To each agricultural society or association of individuals holding a winter exhibition of poultry and filing in the department a return furnishing in respect to such exhibitoin the same information as required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to the amount actually paid out for prizes at such exhibition but not exceeding the sum of $300: 1907 c. 5, s. 16.

Provided that where the amount of money so actually paid out for prizes exceeds the sum of $500 an amount equal to sixty-six and two-thirds per cent. of the amount so actually paid out may be paid;

6. To each agricultural society or association of individuals holding a horticultural exhibition and filing in the department a return furnishing in respect to such exhibition the same information as required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to the amount actually paid out for prizes at such exhibition but not exceeding the sum of $300; 1907, c. 5, s. 16.

7. To each agricultural society holding a field grain competition and filing in the department a return furnishing in respect to such exhibition same information as required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out for such prizes but not exceeding the sum of $50 for any one competition, nor the sum of $250 in all; 1915, c. 2, s. 15.

8. To each agricultural society holding a spring stallion show and filing in the department a return furnishing in respect to such exhibition the same information as required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out for such prizes but not exceeding the sum of $300;

9. To each agricultural society holding a good farms competition and filing in the department a return furnishing in respect to such exhibition the same information as required of a society by clauses (*c*), (*d*) and (*e*) of section 23, an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out for such prizes but not exceeding the sum of $100.

(2) In case the amount of the appropriation available shall not be sufficient to pay the total amount of the grants which

would be payable under this section then such amounts may be apportioned between those entitled *pro rata* on the same basis.

DISORGANIZATION OF SOCIETIES.

Proceedings for disorganization of societies

34. In the event of its appearing advisable that any society be disorganized, the Minister may order and declare that, on and after a day to be named by him, such society shall be disorganized, and thereupon the same shall cease to exist and the officers thereof shall cease to hold office.

Minister for settlement of affairs on disorganization

35. Upon the disorganization of any society the Minister may appoint a liquidator or liquidators to adjust and settle the assets and liabilities of such society and such liquidator or liquidators so appointed shall have full power and authority to sell and dispose of and convert into money all the assets and property of such society, and shall apply the same so far as the same will extend, first in payment of his or their remuneration, to be fixed by the Minister, and secondly, in payment of the liabilities of the society, and the surplus, if any, shall be paid into the general revenue fund of the Territories.

Regulations by Lieutenant Governor in Council

36. The Lieutenant Governor in Council may make regulations for the guidance of agricultural societies and exhibition associations not inconsistent with the provisions of this Ordinance respecting the manner in which their official books and records are to be kept and governing the conduct and management of agricultural institute meetings, exhibitions and any other undertakings such societies are authorized to engage in.

(2) Any society that fails to carry out such regulations shall not be entitled to participate in any appropriation in aid of agricultural societies and exhibition associations provided by the Legislative Assembly.

SCHEDULE.

FORM A.

APPLICATION FOR FORMATION OF SOCIETY.

To the Minister of Agriculture of the Province of Alberta:

We, the undersigned, hereby apply to be formed into an agricultural society under the provisions of *The Agricultural Societies Ordinance.*

The proposed name of the society is "The..... Agricultural Society."

The proposed chief place of business of the society is at..... in the Province of Alberta.

And the undersigned, each as to himself, says:

1. That he is over eighteen years of age;
2. That he is a resident of the Province of Alberta;
3. That he is not a member of any other agricultural society;
4. That he has subscribed to the funds of the society the sum set opposite his name in the fourth column hereunder and that he has paid to the said funds the sum set opposite his name in the fourth column hereunder.

Dated at.....this.....day of.....A.D. 19....

SIGNATURE	OCCUPATION	POST OFFICE ADDRESS	AMOUNT PAID

AFFIDAVIT VERIFYING APPLICATION.

Canada
Province of Alberta } I,.....of.....
To Wit: } in the Province of Alberta, make oath and say:

1. I am one of the subscribers to the foregoing (*or* annexed) application;

2. I verily believe that the statements made in the said application by each of the said applicants are true;

3. The sum of.....dollars, being the total sum paid by the said applicants towards the funds of the proposed..... Agricultural Society is now held by.....in trust for said society.

Sworn to before me at.....
in the Province of Alberta, this
.....day of.....
.....A.D. 1.....

(*Signature*)

.....
A.....in and for the Province of Alberta.

1913 (2nd Session), c. 2, s. 3.

FORM B.

PROVINCE OF ALBERTA.

The Agricultural Societies Ordinance.

This is to certify that on the.....day of..... A.D. 1....., application was made to the Minister of Agriculture for the Province of Alberta by (*here set out names and addresses of applicants*) for the formation of an agricultural society under the provisions of *The Agricultural Societies Ordinance*, to be known as The Agricultural Society and to have its chief place of buisness at..... in the said province and the requirements of the said Ordinance as to matters preliminary having been complied with it is hereby declared that the said agricultural society has been this day organized under the name of The Agricultural Society and having its chief place of business as aforesaid and subject in all respects to the provisions of the said Ordinance.

Dated at.....this.....day of A.D. 1.....

.....
Minister of Agriculture.

1913 (2nd Session), c. 2, s. 3.

CHAPTER 70.

An Ordinance respecting Municipalities.

(C.O., c. 70.)

NOTE.—This Ordinance is still in force but affects only a small territory.

CHAPTER 71.

An Ordinance respecting the Assessment of Railways.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Annual statement of railway company to municipality and school district

1. Every railway company whose railway is not exempt from taxation shall annually transmit on or before the first day of February to the secretary-treasurer of every municipality and to the secretary or other officer of every public school district through which the company's railway may run a statement to be signed by some authorized official of the company showing—

1. The quantity of land other than the roadway owned or occupied by the company which is liable to assessment;

2. The quantity of the land occupied by the roadway. C.O., c. 71, s. 1.

Lands to be assessed

2. The secretary-treasurer of such municipality or the secretary of the school district as the case may be shall communicate such statement to the assessor of the municipality or school district as the case may be who shall assess the lands described therein as other lands within the municipality or school district and who shall deliver at or transmit by post to the nearest station or office of the company a notice addressed to such company stating the amounts at which the land of such company and the roadway and superstructure have been assessed. C.O., c. 71, s. 2.

Roadway and superstructure assessment

3. Whether such statement in section 1 of this Ordinance is placed in the hands of the assessor of any such municipality or school district or not, the assessor of every municipality or school district as the case may be shall assess the lands of such railway company and the roadway thereof and the superstructure of such roadway and give such notice as is required by section 2 hereof:

Provided that the roadway and superstructure thereon shall not be assessed at a greater value than $1,000 per mile. C.O., c. 71, s. 3.

Collection of taxes

4. Such taxes shall be payable to the municipality or school district as the case may be making such assessment and shall be collectible in the same manner as other taxes. C.O., c. 71, s. 4.

5. Railway companies shall not be liable for assessment in any school district or municipality in the Territories for the payment of any debenture indebtedness existing on the thirty-first day of December, 1892. C.O., c. 71, s. 5.

NOTE.—In reference to this subject, Chapter 30 of the Statutes of 1906, as amended by c. 20, s. 17 of 1908, and c. 5, s. 10 of 1909, should be consulted.

CHAPTER 72.

An Ordinance respecting Villages.

(1901, c. 25.)

Chapter 5, 1913, substituted.

CHAPTER 73.

An Ordinance respecting Local Improvement Districts.

(1903, 2nd Session, c. 24.)

Chapter 11, 1907, substituted.

CHAPTER 74.

An Ordinance respecting Irrigation Districts.

(C.O., c. 74.)

NOTE.—There is no Irrigation District now working under the provisions of this Ordinance, but an Act respecting Irrigation Districts was passed subsequently being chapter 13 of the Statutes of 1915.

CHAPTER 75.

An Ordinance respecting Schools.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The School Ordinance.*" C.O., c. 75, s. 1. Short title

INTERPRETATION.

2. In this Ordinance, except the context otherwise requires— Interpretation

1. The expression "department" means the department of Education; Department

2. The expression "Minister" means the Minister of Education; 1910 (2nd Session), c. 6, s. 2; Minister

3. The expression "council" means the educational council; Council

4. The expression "inspector" means any school inspector appointed under this Ordinance; Inspector

5. The expression "district" means any school district erected or constituted as such at the date of the coming into force of this Ordinance and any school district hereafter erected or constituted under the provisions hereof; District

6. The expression "rural district" means any school district situated wholly outside the limits of any town or city municipality or any village: Rural district

Provided that in case any rural district or any portion thereof is included in any village that may hereafter be organized such district shall for the purposes of this Ordinance be deemed a rural district until the end of the then current calendar year;

7. The expression "village district" means any school district situated wholly or in part within the limits of any village: Village district

Provided that in case any village in which is situate in whole or in part a village district is at any time incorporated as a town such village district shall for the purposes of this Ordinance be deemed to continue to be a village district until the end of the then current calendar year; 1903 (2), c. 27, s. 1.

8. The expression "town district" means any school district situated wholly or in part within the limits of any town or city municipality; Town district

9. The expression "ratepayer" means any person of the full age of twenty-one years whose name appears on the last revised assessment roll of the district or in the case of a district in which there has been no revised assessment roll any person of the full age of twenty-one years who has owned or been occupant of assessable property therein for a period of at least two months; 1903 (2), c. 27, s. 1; c. 19, 1913, s. 1. Ratepayer

Resident ratepayer

10. The expression "resident ratepayer" means:

(*a*) In any proposed district any person of the full age of twenty-one years actually residing therein and who has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to the date of the first school meeting;

(*b*) In any established district in which there has been no revised assessment roll of the district any person of the full age of twenty-one years actually residing therein and who has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to the date of any school meeting;

(*c*) In any rural municipality any person of the full age of twenty-one years actually residing in the school district whose name appears on the last revised municipal voters' list; 1915, c. 10, s. 1.

(*d*) In any other district any person of the full age of twenty-one years actually residing therein whose name appears on the last revised assessment roll of the district. 1910 (2), c. 6, s. 3; 1913, c. 19, s. 1.

Board

11. The expression "board" means the board of trustees of any district;

Teacher

12. The expression "teacher" means any person holding a legal certificate of qualification; C.O., c. 75, s. 2.

Owner

13. The expression "owner" includes any person who by any right, title, or estate whatsoever is or is entitled to be in possession of any land in a district;

Occupant

14. The expression "occupant" includes inhabitant occupier of any land or if there be no inhabitant occupier the person entitled to the possession thereof and the leaseholder or holder under agreement for lease and holder under agreement for sale and any person having or enjoying in any way or for any purpose whatsoever the use of land;

Taxpayer

15. The expression "taxpayer" means any person who is the owner or occupant of lands in respect of which some person is or may be assessed. 1903 (2), c. 27, s. 1.

16. The expression "school" means any public or separate school established under this Ordinance or any class room thereof. 1913 (2nd Session), c. 16, s. 1.

DEPARTMENT OF EDUCATION.

Organization

3. There shall be a department of the public service of the Province of Alberta called the Department of Education over which the member of the Executive Council appointed by the Lieutenant Governor in Council under the seal of the Province of Alberta to discharge the functions of the Minister of Education for the time being shall preside. 1910 (2), c. 6, s. 1.

(2) The Lieutenant Governor in Council may appoint such officers, clerks and servants as are required for the proper conduct of the business of the department and for the purposes of this Ordinance all of whom shall hold office during pleasure.

4. The department shall have the control and management of all kindergarten schools, public and separate schools, normal schools, teachers' institutes and the education of deaf, deafmute and blind persons. Functions

5. The Minister shall have the administration, control and management of the department and shall oversee and direct the officers, clerks and servants thereof. Administration

Regulations of the Department.

6. The Minister with the approval of the Lieutenant Governor in Council shall have power:

1. To make regulations of the department—
 (*a*) For the classification, organization, government, examination and inspection of all schools hereinbefore mentioned; Schools and courses of study
 (*b*) For the construction, furnishing and care of school buildings and the arrangement of school premises; School buildings and grounds
 (*c*) For the examination, licensing and grading of teachers and for the examination of persons who may desire to enter professions or who may wish certificates of having completed courses of study in any school; Examination of teachers
 (*d*) For a teachers' reading course and teachers' institutes and conventions; Teachers' institutes
2. To authorize text and reference books for the use of the pupils and teachers in all schools hereinbefore mentioned as well as such maps, globes, charts and other apparatus or equipment as may be required for giving proper instruction in such schools; Text books and apparatus
3. To prepare a list of books suitable for school libraries and to make regulations for the management of such libraries; School libraries
4. To make due provision for the training of teachers. Normal schools

Powers of the Minister.

7. It shall be the duty of the Minister and he shall have power— Powers of Minister

1. To appoint one or more persons to inquire into and report upon any appeal, complaint or dispute arising from the decision of any board or inspector or other school official or upon the condition of one or more schools or upon the financial condition of any district or upon any other school matter; and such person or persons shall have power to take evidence under oath or by affirmation; and the Minister upon receipt of such report shall make such order thereon as to him shall seem proper; Appeals, disputes and complaints
2. To appoint an official trustee to conduct the affairs of any district; and any such official trustee shall have all the powers and authorities conferred by this Ordinance upon a board and its officers; and shall be remunerated out of the funds of the district or otherwise as the Lieutenant Governor in Council may decide; and upon the appointment of any such official trustee the board, if any, of any district for which he is appointed shall cease to hold office as such. 1910 (2nd Session), c. 6, s. 4. Official trustees
3. To appoint some person to inquire into and report upon the conditions existing in any portion of the Province of Alberta that may not have been erected into a school district and subject to the provisions of this Ordinance in that behalf to take such Unorganized districts

action thereon as to him may seem expedient; and such person shall receive such remuneration as the Lieutenant Governor in Council may determine; 1910 (2), c. 6, s. 1.

Cancel certificates

4. To suspend or cancel for cause any certificate granted under the regulations of the department;

Advice to trustees

5. To cause to be prepared and printed recommendations and advice on the management of schools and districts for trustees and teachers;

Forms

6. To prepare suitable forms and give such instructions as may be necessary for making all reports and carrying out the provisions of this Ordinance;

Call meetings

7. To appoint some person to call any school meeting required to be held under this Ordinance when there is no person authorized to call such meeting or when the person so authorized neglects or refuses to act;

Plans for schools

8. To cause to be prepared plans of buildings suitable for schools of one or two rooms;

Annual report

9. To report annually to the Lieutenant Governor in Council upon all schools and institutes herein mentioned with such statements and suggestions for promoting education generally as he may deem expedient;

10. To make any provision not inconsistent with this Ordinance that may be necessary to meet exigencies under its operation. C.O., c. 75, ss. 6, 7, 8, 9, 10.

11. To require the parents or guardian, and in the case of no parent or guardian the individual concerned, to furnish the board of any school district with such information regarding educational attainment and occupation as may be required by the Department of Education from time to time until such person has reached the full age of eighteen years. 1915, c. 10, s. 1 (2).

EDUCATIONAL COUNCIL.

Members

8. There shall be an educational council consisting of five persons at least two of whom shall be Roman Catholics to be appointed by the Lieutenant Governor in Council; who shall receive such remuneration as the Lieutenant Governor in Council shall determine.

Term of office

(2) On the first constitution of the council three of the members shall be appointed for three years and two for two years; and thereafter each member appointed shall hold office for two years. C.O., c. 75, s. 4.

Meetings

9. Meetings of the council shall be held at such times and places as may be determined by the Minister but at least one meeting shall be held in each calendar year. 1903 (2), c. 27, s. 2.

Subjects for consideration

10. All general regulations respecting the inspection of schools, the examination, training, licensing and grading of teachers, courses of study, teachers institutes and text and reference books shall before being adopted or amended be referred to the council for its discussion and report. C.O., c. 75, s. 4 (2).

Report of council

11. The council shall consider such matters as may be referred to it as hereinbefore provided or by the Minister and may also consider any question concerning the educational system of the

Province of Alberta as to it may seem fit and shall report thereon to the Lieutenant Governor in Council. C. 6, 1910 (2), s. 1.

FORMATION OF PUBLIC SCHOOL DISTRICTS.

Conditions necessary for erection of district

12. Any portion of the Province of Alberta may be erected into a public school district provided that—

(*a*) It does not exceed four miles in length or breadth exclusive of road allowances;

(*b*) It contains four persons actually resident therein who on the erection of the district would be liable to assessment, and eight children between the ages of five and sixteen inclusive:

Special cases—other boundaries permitted

Provided however that in special cases the Minister may permit the boundaries of any district to exceed four miles in length or breath or either. C.O., c. 75, s. 12; 1909, c. 5, s. 2; 1910 (2), c. 6, s. 1; 1913, c. 19, s. 2.

Committee for erection of district

13. Any three residents in any area fulfilling the requirements of the next preceding section may be formed or may form themselves into a committee to procure its erection into a district and may petition the Minister for such erection.

Petition

(2) The petition shall be in form prescribed by the Minister. C.O., c. 75, ss. 13, 14.

First School Meeting.

Notice of first school meeting

14. On receiving the approval of the Minister to the limits and name of any proposed district a notice calling a meeting of the ratepayers shall be posted up by the petitioners in at least five widely separated places within such limits one of which shall be the post office therein if there be such post office and if there be no post office therein a sixth notice shall be posted in the nearest post office thereto at least two weeks prior to the date of the said meeting.

Form

(2) The notice may be in form prescribed by the Minister. C.O., c. 75, s. 16.

Proof of posting

15. Satisfactory proof that the notices have been posted up as hereinbefore provided shall be furnished in such form as may from time to time be prescribed by the Minister. 1910 (2) c. 6, s. 5.

First meeting

Chairman

Secretary

16. At one o'clock in the afternoon standard time of the day appointed in the notice calling the first school meeting the resident ratepayers present shall elect one of their number as chairman to preside over their proceedings and shall also appoint a secretary who shall record the minutes of the meeting and perform such other duties as may be required of him by this Ordinance. C.O., c. 75, s. 17.

Chairman to sign declaration

17. The chairman shall upon his appointment sign the declaration provided in form A in the schedule to this Ordinance.

Ratepayers to sign declaration

18. After the election of a chairman any person wishing to take any part in the meeting or vote thereat shall be required to sign in the presence of the chairman and secretary the declara-

Ratepayer's right to vote

tion provided in form A in the schedule to this Ordinance and no person shall be allowed to take part in the meeting or vote thereat unless and until he shall have signed such declaration.

Penalty for false declaration

(2) Any person subscribing to a declaration form A containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10.

Declaration to be forwarded to Minister

(3) Any declaration made under the provisions of this section shall be forwarded by the chairman to the Minister.

Chairman not to vote

19. The chairman may not vote on any question whether the same is to be decided by a show of hands or a poll but in case of a tie he must give a casting vote. C.O., c. 75, s. 20.

Poll for formation of district

20. Upon his appointment and before any other business is transacted except as provided in section 18 of this Ordinance the chairman shall immediately cause a poll to be taken of the votes of the resident ratepayers for and against the formation of the proposed district.

Chairman presides, secretary records votes

21. On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given in the form prescribed by the Minister. C.O., c. 75, ss. 24, 25.

Closing poll

22. The poll shall remain open for one hour at the end of which time it shall be closed by the chairman who shall then sum up the votes. C.O., c. 75, s. 25.

Nominations for trustees

23. If the result of the poll is favourable to the formation of the district the chairman shall immediately call for nominations of persons to serve as trustees and the secretary shall record such nominations in the order in which they are made.

Qualifications of candidates

24. The persons nominated for the position of trustees shall be resident ratepayers of the proposed district and shall be able to read and write. C.O., c. 75, s. 31.

How nominated

25. Each candidate for the position of trustee shall be nominated by a mover and seconder both of whom shall be resident ratepayers of the proposed district. C.O., c. 75, s. 28.

Time for nomination

26. Nominations shall be received by the chairman for thirty minutes after he first calls for the same. C.O., c. 75, s. 22 (3).

Acclamation

27. In case the number of nominations does not exceed three the chairman shall declare the persons nominated to be elected. C.O., c. 75, s. 29.

Poll for election of trustees

28. If more than three candidates are nominated the chairman shall at the close of the time for nominations declare a poll open for the election of trustees. C.O., c. 75, s. 22.

Chairman to preside

29. On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given in the form prescribed by the Minister. C.O., c. 75, ss. 24, 25.

Ratepayers' votes

30. Every resident ratepayer shall have three votes but shall in no case vote more than once for any one candidate at the same election. C.O., c. 75, s. 18 (2).

31. The poll shall remain open for one hour at the end of which time it shall be closed by the chairman who shall then sum up the votes and declare the result. C.O., c. 75, s. 25. Closing poll

32. Within ten days after the date of the first school meeting the chairman shall send to the department certified copies of— Chairman to forward minutes, etc., to department

(*a*) The minutes of the meeting;
(*b*) The poll for the erection of the district;
(*c*) The poll for the election of trustees;
(*d*) The notice calling the meeting;
(*e*) The form of proof of posting notices required by section 15. 1903 (2), c. 27, s. 3; 1910, c. 6.

Order for Erection of School District.

33. Upon the receipt of the returns mentioned in the next preceding section and upon being satisfied that all the requirements and provisions of this Ordinance with reference to the formation of the district have been substantially complied with the Minister may order the erection of the proposed district into a school district and assign to it a name and number. 1910 (2), c. 6, s. 7. Minister may order erection of district

(2) Notice of the erection of the district shall be published in the official gazette; and such notice shall be conclusive evidence of the erection of the district and that all the necessary formalities have been complied with. C.O., c. 75, s. 41. Notice in official gazette

34. Whenever complaint is made that the election of any trustee or that the proceedings or any part thereof of any first or other school meeting in any rural district have not been in conformity with this Ordinance the Minister may upon receiving the complaint of any ratepayer verified by solemn declaration of the complainant investigate the matter and render any decision in and about the same as to him shall appear proper. Investigation of disputed election, etc.

(2) No such complaint shall be entertained by the Minister unless made to him in writing within twenty days after the holding of the election or meeting.

Name of School District.

35. Every district created under this Ordinance shall be entitled "The.....School District No.....of the Province of Alberta." 1910 (2), c. 6, s. 1. Name of district

(2) The Minister may from time to time alter the name or number or both of any district upon the petition of the board of such district or without such petition if the Minister deems it advisable and notice of such alteration shall be published in the official gazette but in such cases the seal theretofore used by such district shall continue to be the seal thereof until changed by the board. 1910 (2), c. 6, s. 8. Alteration of name

(3) No change in the name or number or both of any district made in accordance with the provisions of this Ordinance shall affect any obligations, rights, actions or property incurred, established, done or acquired prior to such change. C.O., c. 75, ss. 11, 56; 1910 (2), c. 6, s. 9. Effect of change

FIRST BOARD OF TRUSTEES.

Terms of Office.

Terms of office of trustees elected at first school meeting

36. The trustees elected at the first school meeting in any district shall hold office as follows: The trustee receiving the greatest number of votes shall hold office until the third annual meeting of the district is held; the trustee receiving the next greatest number of votes until the second annual meeting is held; and the trustee receiving the lowest number of votes until the first annual meeting is held:

Provided that in case there is no vote taken the trustees elected shall respectively hold office in the order in which they are nominated until the third, second and first annual meeting of the district is held:

Provided further that if any two or more trustees elected receive an equal number of votes they shall respectively hold office in the manner provided in the next preceding proviso:

Provided further that if the annual meeting of a district is not held in any year it shall for the purposes of this section be deemed to have been at the regular time. C.O., c. 75, s. 30.

Declaration of Office.

Declaration of office

37. Every trustee shall before the first meeting of the board is held make the following declaration before the chairman of the meeting at which he was elected or a justice of the peace or commissioner for taking affidavits:

I, *A.B.*, do hereby accept the office of trustee to which I have been elected in (*name of school district in full*) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee.

Dated this.....day of.....19....

A.B.,
Trustee.

Certificate of declaration

(2) The chairman, justice of the peace or commissioner shall thereupon grant him a certificate in the following form:

I, *C.D.*, do hereby certify that (*give name, residence and occupation of the person mentioned*) elected trustee for (*give name of school district*) has this day made before me the declaration of office as prescribed by *The School Ordinance* in that behalf.

C.D.,
Chairman, J. P., or Commissioner.

Dated this.....day.....
of.....19.... C.O., c. 75, s. 33.

Organization of Board.

First meeting of board

38. Upon the erection of a district the trustee elected for the longest term shall be notified of the erection of the district by the Minister; and he shall thereupon within ten days after receipt of such notice call a meeting of the board in the manner provided by this Ordinance for calling such meetings for the purpose of choosing one of its number as chairman and appointing a secretary, treasurer or secretary-treasurer and transacting such other business as may be necessary. 1900, c. 26, s. 4.

FORMATION OF SCHOOL DISTRICT BY MINISTER.

Erection of district on order of Minister

39. In case any portion of the Province of Alberta has not been erected into a school district the minister may order the erection of such portion into a district provided that it contains—

(*a*) Fifteen children between the ages of five and sixteen inclusive;

and notice of the erection of any such district shall be published in the official gazette which notice shall be conclusive evidence that the district has been duly erected and constituted in accordance with the provisions of this Ordinance. Provided, however, that should the Minister consider it desirable that a consolidated school district be established and that a school district be erected with a view of having it become a part of the proposed consolidated school district, the restriction provided for in this section shall not apply. 1913 (2nd Session), c. 16, s. 1; 1910 (2), c. 6, s. 1; 1913, c. 19, s. 3.

Election of trustees

40. In case of the erection of any district in accordance with the provisions of the next preceding section the Minister may appoint some person to call a meeting of the resident ratepayers of the district to elect trustees which person shall act as chairman of the meeting; and the election held shall be conducted in the manner provided for the election of trustees at a first school meeting; and the trustees elected shall within ten days after their election take the declaration of office and meet to organize the board as hereinbefore provided.

40*a*. The Minister may authorize a vote of the resident ratepayers of each of any two or more contiguous districts, to be taken as nearly as may be as provided by sections 14 to 22, inclusive, of the Ordinance for the holding of a first school meeting, for the purpose of ascertaining whether or not the majority of such resident ratepayers are in favour of the union of such school districts into a consolidated school district. 1915, c. 10, s. 1 (2).

40*b*. Upon the Minister being satisfied that the majority of the resident ratepayers voting in the manner hereinbefore provided are in favour of the union of such school districts as aforesaid he may by order, notice of which shall be published in the official gazette, unite such school districts into a consolidated school district. 1913, c. 19, s. 4.

40*c*. Every such consolidated school district formed under the provisions of the preceding section shall be entitled "The..... Consolidated School District, No.....of the Province of Alberta," and shall be given such name as the Minister shall designate in the order forming the same. Such consolidated school districts shall be numbered consecutively, the first of such districts to be established to be assigned the number 1, and the Minister shall have power to change the name of any consolidated district in accordance with the provisions of section 35 hereof. 1913, c. 19, s. 4.

40*d*. Upon the union of two or more districts as aforesaid into a consolidated district none of the districts so united shall lose its existence as a corporate body; and the debts and liabilities of every such district shall continue to be a charge upon such district as fully and completely as if no union had taken place, but the business of each of such districts shall be managed and conducted as provided in this Ordinance excepting in so far as variation is made herein applying to the administration of such districts when united into a consolidated school district: 1913, c. 19, s. 4.

Provided that the board of the consolidated district may, with the consent of the Minister, take over the assets and assume the liabilities of the districts included in such consolidation, upon such terms and conditions as may be agreed upon by the said board, and the trustees representing the several districts; but such agreement shall not prejudicially affect the rights or security of the holder of any debentures issued by any of such districts. 1915, c. 10, s. 1 (4).

40*e*. The trustees of each consolidated school district shall be a corporation under the name of "The Board of Trustees of..... Consolidated School District No.....of the Province of Alberta," and shall possess all the powers and perform all the duties and be subject to all the liabilities conferred and imposed by this Ordinance upon the trustees of town school districts, and in addition thereto shall have power to provide for the conveyance of pupils to and from school and to pay the cost thereof. 1913, c. 19, s. 4.

40*f*. Upon the formation of any such consolidated school district as aforesaid the first board of trustees of such consolidated school district shall consist of the chairman of the board of trustees of each of the school districts united into such consolidated school district and thereafter the board of trustees of such consolidated district shall consist of one trustee elected by the ratepayers of each of the districts so united to be elected annually as nearly as may be in accordance with the provisions of this Ordinance respecting the election of school trustees. 1913, c. 19, s. 4.

40*g*. In the event of any such consolidated school district being formed by uniting not more than two districts, then the two school trustees elected as hereinbefore provided shall forthwith after taking oath of office appoint under their hand as additional trustee some resident ratepayer qualified under this Ordinance to hold such office and in the event of the two trustees so elected being unable to agree as to the selection of an additional trustee as aforesaid such trustee shall be appointed by the Minister. 1913, c. 19, s. 4.

40*h*. In every school district so united into a consolidated district the school trustee elected as hereinbefore provided shall with respect to all the property, assets and liabilities of such district so united possess all the powers and be subject to all the responsibilities of the board of trustees for such district but the secretary-treasurer of the consolidated district shall be the secretary-treasurer of each of the districts so united into such consolidated district. 1913, c. 19, s. 4.

Separate schools

41. The minority of the ratepayers in any district whether Protestant or Roman Catholic may establish a separate school therein; and in such case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. C.O., c. 75, s. 36.

Assessments

Petition for erection

42. The petition for the erection of a separate school district shall be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district; and shall be in the form prescribed by the Minister. C.O., c. 75, s. 37.

Qualification of voters

43. The persons qualified to vote for or against the erection of a separate school district shall be the ratepayers in the district of the same religious faith Protestant or Roman Catholic as the petitioners. C.O., c. 75, s. 38.

Notice of ratepayers' meetings

44. The notice calling a meeting of the ratepayers for the purpose of taking their votes on the petition for the erection of a separate school district shall be in the form prescribed by the Minister and the proceedings subsequent to the posting of such notice shall be the same as prescribed in the formation of public school districts C.O., c. 75, s. 39.

Subsequent proceedings

Rights and liabilities of separate school districts

45. After the establishment of a separate school district under the provisions of this Ordinance such separate school district and the board thereof shall possess and exercise all rights, powers privileges and be subject to the same liabilities and method of government as is herein provided in respect of public school districts.

Assessment

(2) Any person who is legally assessed or assessable for a public school shall not be liable to assessment for any separate school established therein. C.O., c. 75, s. 40.

SCHOOL SITE.

In rural district

46. In every rural district the board shall acquire a site in the centre of the district or as near thereto as the road allowances and the securing of a dry, healthy and suitable location will permit; but in the event of it being found impracticable to so locate the school site by reason of the configuration or physical features of the land the board may petition the Minister to approve of the location of another site which petition shall be accompanied by a plan of the district showing:

(*a*) The sections and quarter sections within the district having marked thereon the place of residence of the resident ratepayers and of the children between the ages of five and sixteen inclusive;

(*b*) The position of the travelled roads, bridges and physical features including lakes, sloughs, rivers, creeks and other natural barriers;

(*c*) One or more locations suitable, in the opinion of the board, for a school site;

and the Minister may, if satisfied that a site in the exact centre of the district would be impracticable by reason of the configuration or physical features of the land, approve of another site. C.O., c. 75, s. 72 in part; 1913, c. 19, s. 5.

Where difficulty arises in securing site

(2) In the event of its being shown to the satisfaction of the Minister that the title of any site cannot be obtained by the district by reason of the refusal or failure of the owner to sell such site or to accept a fair price for it or by reason of a mortgagee or other person interested in such site refusing or failing to release his mortgage or interest the Minister may execute a transfer of the said site in favour of the district and upon application *ex parte* to a judge of the Supreme Court and upon presentation of such transfer he shall make an order vesting the title of the lands described in the transfer in the school district free from all charges and encumbrances other than taxes. 1913, c. 19, s. 5.

Settling compensation for site

(3) The amount and in case there are more parties than one interested the manner of payment of the compensation to be paid for the site acquired under the provisions of the next preceding subsection shall be determined by two arbitrators one appointed by the district and the other by the owner or persons interested under the provisions of *The Arbitration Ordinance*. 1903 (2), c. 27, s. 4. See *Arbitration Act*, 1909, c. 6.

Penalty for violation

(4) Each member of the board of any district that acquires a school site in violation of or noncompliance with the provisions of this section shall be personally liable on summary conviction, on information laid by the Minister or any ratepayer of such district, to a penalty not exceeding $100 and costs, but the members of such board shall not be liable for the cost of any site so acquired and of any building erected thereon:

Provided, however, that any member of the board voting against the resolution of the board for the acquisition of such site and the erection of such building, if any, shall not be liable under this subsection. 1910 (2), c. 6, s. 10.

In town or village district

47. In every town or village district the board may select such site as in its judgment is desirable subject to ratification by the ratepayers in the case of debentures being issued. C.O., c. 75, s. 72 (2), in part.

(2) The provisions of subsections (2) and (3) of section 46 hereof shall *mutatis mutandis* apply in the case of such site selected as aforesaid by the board of a town or village district. 1910 (2), c. 6, s. 11.

ALTERATION IN LIMITS OF SCHOOL DISTRICTS.

Alteration boundaries

48. The Minister may by order notice of which shall be published in the official gazette alter the boundaries of any district by adding thereto or taking therefrom or divide one or more existing districts into two or more districts or unite portions of any existing district with another district or with any new district in case it has been satisfactorily shown that the rights of ratepayers under section 14 of *The North-West Territories Act* to be affected thereby will not be prejudiced and that the proposed changes are for the general advantage of those concerned. C.O., c. 75, s. 52.

Security of debentures

49. In the case of any district having debenture indebtedness outstanding no alteration shall be made in the boundaries thereof which will prejudicially affect the rights or security of the holder of such debentures without due provision being made for the protection of such holder. C.O., c. 75, s. 53.

50. Upon the alteration of the boundaries of any district due provision shall be made for the settlement and adjustment of the assets and liabilities of the same between the districts into which the same may be divided or between the same and the portions thereof added to or taken therefrom; and the Minister may cause the necessary inquiries to be made in order to ascertain and determine the due proportion of such assets and liabilities and the best method of settling and adjusting the same as aforesaid and may in his discretion appoint one or more persons to make such inquiries and report thereon and may prescribe and declare the terms of such settlement and adjustment and the manner in which the same shall be carried into effect and in cases in which by the terms of such settlement and adjustment any rates or taxes are required to be levied or collected upon property in any division of such district or taken from such district may prescribe by whom, at what time and in what manner such rates and taxes shall be raised, levied and collected and to whom the same or any part thereof shall be paid and by what district or districts, in what proportions and to whom the expenses of such settlement and adjustment shall be paid. C.O., c. 75, s. 53 (2). Adjustment of assets and liabilities

(2) When any area is added to or taken from any district the Minister may by order make all provisions necessary to meet the exigencies of the case respecting the assessment of property in such area and the levying, collection and application of taxes on such property or one or more of said matters for the then current year and the matters dealt with in such order shall be done according to the terms thereof and not otherwise. 1910 (2), c. 6, s. 12. Adjustment of taxation for current year

(3) Whenever any real property, the title of which is registered in the name of a district, is vested in any other district in consequence of union with or alterations of the boundaries of such other district, and the Minister by order so vests such real property, a copy of such order duly certified by the Minister shall be sufficient evidence to the registrar of the land registration district in which such real property is situate, of such change of ownership, and the said registrar shall without the charge of any assurance fund fees upon request in writing of such other district and upon production of a certified copy of the order as aforesaid and the duplicate certificate of title covering the same, register it as owner of such real property. 1913, c. 19, s. 6; 1913 (2nd Session), c. 16, s. 1.

51. The Lieutenant Governor in Council may by order notice of which shall be published in the official gazette declare that on and after a day therein to be named any district shall be disorganized and thereupon the same and the board thereof shall cease to have or enjoy any of the rights, powers and privileges vested in such corporations by this Ordinance; and upon any such disorganization of a district the Minister may appoint one or more persons to adjust and settle the assets and liabilities of such district; and such person or persons so appointed shall have full power and authority to sell and dispose of and convert into money all the assets and property of such district and apply the same so far as the same will extend; first in payment of the liabilities of the said district; and second in payment of his or their remuneration as hereinafter mentioned and divide the surplus if any *pro rata* among the ratepayers of the said district entitled to Disorganization of school districts

Adjustment of assets and liabilities

share therein; and in case the amount so realized shall be insufficient to pay and satisfy the liabilities of the said district and his or their remuneration then such person or persons shall have full power and authority to assess, levy, collect and enforce payment in the same manner as boards, assessors, collectors and treasurers are authorized to do by *The School Assessment Ordinance* of such sum or sums of money as may be required to pay and satisfy such indebtedness or any balance thereof remaining unpaid and all expenses connected therewith including his or their remuneration which shall be fixed by the Minister. C.O., c. 75, s. 55.

UNION OF PUBLIC AND SEPARATE SCHOOL DISTRICTS.

Union of public and separate school districts

52. If in any area there exists a public school district and a separate school district and it is resolved by the ratepayers of each of such school districts at a public meeting of such ratepayers respectively called for the purpose of considering the question that it is expedient that such districts should be disorganized for the purpose of the union of the same and the erection of such area into a public school district the Minister may by order notice of which shall be published in the official gazette disorganize such existing districts and erect such area into a public school district with such name as he may decide upon; and thereafter the Minister may make such orders, provisions and appointments as to him shall appear proper for the carrying into effect of such disorganization and the erection of the public school district and as to all matters incident thereto and necessary for the establishment and operation of the same as a public school district and for the carrying out therein of all the provisions of this Ordinance and for the adjustment, arrangement and winding up of all the affairs of such disorganized districts and for the settlement of their liabilities and disposition of their assets:

Provided that unless the liabilities of such disorganized districts are not otherwise liquidated the same shall be assumed by and imposed upon such newly created district and any debentures issued by the disorganized districts or either of them shall have force and effect upon the newly established district and the property and rates thereof as they had upon the district by which they were respectively issued and its property and rates; and the trustees of such newly organized district may authorize and direct the levy and collection of such rate or rates as may from time to time be necessary for the discharging of any liability or debenture indebtedness of a disorganized district assumed by or imposed upon such new district. C.O., c. 75, s. 54.

ANNUAL SCHOOL MEETING.

In Rural and Village Districts.

Time and place of meeting

53. An annual meeting of the ratepayers of every rural and village district shall be held in the school house or some other suitable place within the district not later than the fifteenth day of January in each year commencing at the hour of two o'clock in the afternoon standard time. C.O., c. 75, s. 43; 1910 (2), c. 6, s. 13.

54. The meeting shall be called by the board which shall at least eight days before the day for which the meeting is called post public notices giving the day, place and hour of meeting; and such notices shall be posted in five conspicuous places within the districts one of which shall be the post office and if there be no such post office a sixth notice shall be posted up in the post office nearest thereto. C.O., c. 75, s. 43. Public notice of meeting

55. At the time hereinbefore provided for the commencement of the meeting the chairman of the board shall take the chair and call the meeting to order and the secretary of the board or someone appointed by the chairman shall record the minutes of the meeting and perform such other duties as may be required of him by this Ordinance. Chairman and secretary

(2) In the absence of the chairman the ratepayers present shall forthwith elect one of their number to preside. C.O., c. 75, s. 44.

56. The chairman may not vote on any question whether the same is to be decided by a show of hands or a poll but in case of a tie he must give a casting vote. Chairman's vote

57. Any ratepayer whether resident or not shall be entitled to take part in the annual school meeting but only resident ratepayers shall be entitled to vote for the election of a trustee. 1910 (2), c. 6, s. 14; 1913, c. 19, s. 7. Qualification of voters

58. The chairman shall if requested by any ratepayer or of his own accord require any person wishing to vote for the election of a trustee to subscribe to the declaration in form B (*a*) or B (*b*) in the schedule of this Ordinance; and any person subscribing to such declaration shall be permitted to vote at such election. Ratepayer to sign declaration

(2) Every such declaration shall be subscribed to in the presence of the chairman and secretary who shall subscribe their names as witnesses thereto. Witness

(3) Any person subscribing to a declaration form B containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10. Penalty for false declaration

(4) All declarations made under the provisions of the next preceding section shall be retained by the chairman.

59. The business of the annual meeting may be conducted in the following order: Order of business

1. Receiving and considering the statements prepared by the teacher, trustees, treasurer, collector and auditor;
2. Receiving and considering the inspector's report;
3. Miscellaneous business;
4. Election of trustees. C.O., c. 75, s. 46; 1903 (2), c. 27, s. 5.

60. The chairman upon taking his place shall immediately call upon the secretary to read the following statements and reports which shall be considered and disposed of by the meeting: Statements and reports to be read at annual meeting

1. A statement of the teacher signed by him and giving the following particulars: Teacher's

(*a*) The number of days on which school was kept open during each term succeeding the last annual meeting;
(*b*) The total number of children attending school during that period specifying the number of males and females respectively;
(*c*) The number of children of school age residing in the district who did not attend school during the year;
(*d*) The average daily attendance for each term and for the year;
(*e*) The classification of pupils and the number of pupils in each standard or class;
(*f*) The subjects taught in the school and the number of children studying each;
(*g*) The number of scholars suspended or expelled for misbehaviour or other causes;
(*h*) The date upon which the public examination of the school was held and the number of visitors present;

Trustees' 2. A statement prepared by the trustees showing:
(*a*) The names of the trustees;
(*b*) The officers of the district appointed by the trustees and their salaries;
(*c*) The vacancies created in the board during the year giving the causes thereof with an account of the elections held to fill such vacancies and the results thereof;
(*d*) The engagements entered into during the year by the board as well as an account of those entailed upon them by their predecessors;
(*e*) The number of regular and special meetings of the board held during the year together with a statement showing the number of meetings attended by each member;
(*f*) The number of visits made by each member of the board to the school while it was in operation;

Treasurer's 3. The treasurer's statement for the fiscal year ending on the thirty-first day of December preceding the annual meeting in which shall be set forth—
(*a*) The amounts of money received by the district from each source of revenue including government grants whether paid directly to the teachers or not;
(*b*) The amounts of money paid out by the district with particulars of payment;
(*c*) The amounts of money due to the district from all sources with particulars:
(*d*) The amounts of money due by the district and the terms and times of payment;

Tax collector's 4. A statement prepared by the collector of taxes and signed by him giving the following particulars:
(*a*) The number of acres of land assessed or in the case of village districts the total assessed value of all property as shown by the last revised assessment roll;
(*b*) The rate of the school tax;
(*c*) The total amount of taxes levied during the year;
(*d*) The current taxes collected during the year;
(*e*) The arrears of taxes collected during the year;
(*f*) The total arrears of taxes which are due together with a statement of the amount owing by each ratepayer;

5. The auditor's report; Auditor's

6. The inspector's report received since the next preceding annual meeting was held; Inspector's

7. Such further statements in relation to the affairs of the district as may be deemed advisable. C.O., c. 75, s. 45. Other statements

61. So soon as the other business of the district has been transacted or at three o'clock in the afternoon of the day of the meeting if the other business be not then concluded the chairman shall call for nominations for the office of trustee. C.O., c. 75, s. 22 (3); 1910 (2), c. 6, s. 15. Nominations for trustee

62. Each person nominated for the office of trustee shall be a resident ratepayer of the district and be able to read and write. 1913, c. 19, s. 8. Qualifications of candidates

63. Each candidate shall be nominated by a mover and seconder each of whom shall be a resident ratepayer of the district. C.O., c. 75, s. 28; 1910 (2), c. 6, s. 17; 1913, c. 19, s. 9. Qualification of mover and seconder

64. Nominations shall be received by the chairman for thirty minutes after he has first called for the same. C.O., c. 75, s. 22 (3). Time of nominations

65. In case there is only one nomination the chairman shall declare the candidate nominated to be elected. C.O., c. 75, s. 29. Acclamation

(2) In case of more than one vacancy, and trustees are elected by acclamation, the first trustee nominated shall hold office for the longest term, the others following in order. 1915, c. 10, s. 1 (5).

(3) In case of any two or more trustees receiving an equal number of votes they shall respectively hold office in the manner provided in the next preceding subsection. 1915, c. 10, s. 1 (5).

66. In case there are more nominations than one the chairman shall at the close of the time for receiving nominations declare a poll open for the election of a trustee. C.O., c. 75, s. 22 in part. Poll for election of trustees

67. On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given as in form C in the schedule to this Ordinance. C.O., c. 75, ss. 24, 25. Chairman presides

68. The poll shall remain open for two hours at the end of which time it shall be closed by the chairman who shall sum up the votes and declare the result. C.O., c. 75, s. 25. Closing poll

69. A copy of the minutes of every annual meeting signed by the chairman and the secretary of such meeting shall be forthwith transmitted to the department. C.O., c. 75, s. 68. Copy of minutes for department

ANNUAL SCHOOL MEETING.

In Town Districts.

70. An annual meeting of the ratepayers of every town district shall be held at the same time and place as may be appointed for the nomination of councillors or aldermen or at such other Time and place for meeting

time within six days before the said date as may be fixed by resolution of the board of which due notice shall be given by advertisement, at least once a week for two weeks previous to the said date, in some newspaper or newspapers published in the district, or if there be no newspapers published in the district, then in the manner provided in section 54 hereof with respect to meetings in rural and village districts. C.O., c. 75, s. 57; 1910 (2), c. 6, s. 18.

Notice to municipality

71. The trustees of every town district shall give notice to the secretary-treasurer of the municipality on or before the fifteenth day of November in each year of the number of vacancies required to be filled to make the board complete and they shall on or before the first day of December in each year furnish the secretary-treasurer of the municipality with a list of the resident ratepayers within any portion of the district which is not included in the limits of the municipality which list shall be delivered to the returning officer by the said secretary-treasurer.

List of ratepayers not in municipality

Supporters of separate schools to be distinguished

(2) In the list of qualified voters to be delivered to the returning officer by the secretary-treasurer of the municipality before the opening of the poll the secretary-treasurer shall place opposite the names of any persons on the said list who have been returned to him as supporters of separate schools the letters "SSS.," and the returning officer shall not deliver to any such person a ballot paper for public school trustees. C.O., c. 75, ss. 59, 61.

No ballot to SSS.

When rural or village district becomes town district

(3) Upon a rural or village district becoming a town district the first election for trustees shall be held at the time prescribed in this Ordinance for the annual election of trustees and at such election there shall be elected two trustees for a term of two years and one trustee for a term of one year and the two trustees of the district whose terms have not expired shall continue to hold office for the terms for which they were respectively elected. 1903 (2), c. 27, s. 6.

Municipal procedure to be used

72. In every case in which notice is given as aforesaid the nomination and election of trustees shall be held at the same time and place and by the same returning officer or officers and conducted in the same manner as municipal nominations and elections of councillors except as to qualification to vote which shall be as provided for in this Ordinance; and the provisions of *The Town Act* respecting the time for receiving nominations and for opening and closing the poll, the mode of voting, corrupt or improper practices, vacancies and declarations of office shall *mutatis mutandis* apply to the election of school trustees. C.O., c. 75, s. 60; 1911-12, c. 4, s. 7.

Ballot for trustee election

73. A separate set of ballot papers shall be prepared by the returning officer containing the names of the candidates nominated for school trustees of the same form as those used for councillors except in the substitution of the words "school trustee" for "councillor" or "alderman" on said ballot paper. C.O., c. 75, s. 63.

Objection to vote

74. In case any objection is made to the right of any person to vote at an election of trustees in any town district the returning officer may require the person whose right of voting is objected to, to make the following oath or affirmation:

I, *A.B.*, do solemnly swear (*or affirm*) that I am a *bona fide* resident ratepayer of (*give name of district in full*); that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God. Oath

NOTE.—*In the case of an affirmation the words "So help me God" shall be omitted.*

And any person making such declaration shall be permitted to vote for the election of trustees. C.O., c. 75, s. 62; 1913, c. 19, s. 10.

75. At the annual meeting held in any town district the reading of any or all of the reports mentioned in section 60 of this Ordinance may be omitted upon a resolution being passed to that effect by the ratepayers present but any ratepayer of the district shall have access to such reports and statements either during or after the meeting is held; and the board if it deem it advisable or upon being authorized to do so by resolution of the ratepayers at the annual meeting may have any or all of such reports or statements or any parts of them except the inspectors' reports printed in a newspaper published in the district. C.O., c. 75, s. 58. Reports and statements for annual meeting — May not be read — May be published

76. Within ten days after the annual election of trustees in any town district is held the secretary of the district shall forward to the department a certified copy of the returning officer's declaration as to the result of the poll. C.O., c. 75, s. 68. Return for department

Contested Elections in Town and Village Districts.

77. In case the validity of the election of any school trustee in any town or village district is contested the same may be tried by a judge of the District Court of the judicial district within which the district is situated; and any ratepayer of the district may be the relator for the purpose; and the judge shall in such case have the like powers as in case of contested elections of councillors under *The Controverted Municipal Elections Act;* and the proceedings and rules which obtain in such cases shall *mutatis mutandis* be followed and observed in such contested elections of school trustees. C.O., c. 75, s. 35; 1910 (2), c. 6, s. 19; 1911-12, c. 4, s. 7. Contested elections

DEFERRED SCHOOL MEETINGS.

78. In case from want of proper notice or other cause any first, annual or other school meeting required to be held under this Ordinance is not held at the proper time it shall be the duty of the secretary of the board when required to do so by any two resident ratepayers or by the Minister to call a meeting of the ratepayers by posting notices in the manner prescribed by the Ordinance for such meeting; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it was called. C.O., c. 75, s. 42. Provisions when prescribed meetings are not held — Notice and powers of later meeting

SPECIAL MEETINGS OF RATEPAYERS.

Special meetings

79. A special meeting of the ratepayers of any district may be held at any time for any necessary purpose not otherwise provided for by this Ordinance. C.O., c. 75, s. 72 (15).

Notice of and how called

80. It shall be the duty of the secretary of the board to call any special meeting when required to do so—

(*a*) By the board;
(*b*) By the Minister;
(*c*) By an inspector;
(*d*) In town and village districts by a request in writing signed by ten resident ratepayers.
(*e*) In rural districts by a request in writing signed by a majority of the resident ratepayers.

(2) The notices calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meetings in rural and village districts. C.O., c. 75, s. 72 (15).

Transaction limited to notice

81. At the meeting so held the ratepayers present shall elect a chairman and secretary and no business shall be considered by the meeting other than that mentioned in the notices calling the same.

AUDIT.

Audit in rural and village districts

82. The books and accounts of every rural and village district shall be audited in each year prior to the annual meeting by an official auditor in the manner prescribed by the regulations of the department.

(2) The fee payable for such audit shall be in the case of rural districts $5 and in the case of village districts $10 and shall be paid out of the funds of the district. C.O., c. 75, s. 66; 1913, c. 19, s. 11; 1915, c. 10 s. 1 (6).

Audit in town districts

83. In every town district it shall be the duty of the auditor of the municipality to audit the books and accounts of such district in each year for which he shall receive no special remuneration out of the funds of the district. C.O., c. 75, s. 67.

BOARD OF TRUSTEES.

Number of Members.

Rural and village districts

84. In rural and village districts there shall be three trustees each of whom after the first election shall hold office for three years and in town districts there shall be five trustees each of whom after the first election shall hold office for two years.

Town districts

(2) Every trustee shall hold office until his successor is appointed. C.O., c. 75, ss. 64, 65.

Trustees a Body Corporate.

Corporate name

85. The trustees of every district shall be a corporation under the name "The Board of Trustees for the..... School District No.....of the Province of Alberta." C.O., c. 75, s. 69; 1910 (2), c. 6, s. 1.

Organization of Board.

86. Within ten days after his election at any meeting other than the first school meeting every trustee shall make the declaration of office provided for in section 37 of this Ordinance. C.O., c. 75, s. 33. Declaration of office

87. The board shall meet within ten days after each annual meeting or in case of town districts within the first ten days of January in each year for the purpose of organizing and transacting such other business as may be required. C.O., c. 75, s. 78 (1). Time of first meeting

88. At the meeting thus held the board shall appoint a chairman, a secretary and a treasurer or a secretary-treasurer who shall respectively hold office during the pleasure of the board and the secretary and the treasurer or the secretary-treasurer shall be allowed such remuneration as the board may fix. 1910 (2), c. 6, s. 20. Appointment of officers Salaries

(2) Any member of the board other than the chairman may be appointed secretary, treasurer or secretary-treasurer.

(3) The teacher of a school district may be appointed secretary but not treasurer or secretary-treasurer. C.O., c. 75, ss. 78 (1), 88.

Board Meetings.

89. A meeting of the board may be called by the chairman or any trustee. C.O., c. 75, s. 81 (2). How called

90. Every regular or special meeting of the board shall be called by giving two clear days' notice in writing which notice may be given by delivering such notice to each trustee or in the absence from his residence of any trustee to any adult person thereat: Notice

Provided that the board of any district may at any meeting at which all the members of the board are present decide by resolution to hold regular meetings of the board and such resolution shall state the day, hour and place of every such meeting and no further or other notice of any such meeting shall be necessary. C.O., c. 75, s. 80; 1900, c. 26, s. 9. Regular meetings

(2) The board may by unanimous consent waiver notice of meeting and hold a meeting at any time which consent shall be subscribed to by each member of the board and shall be recorded in the minutes of the meeting in the following form: Waiver of notice

We, the undersigned trustees of.....S.D., hereby waive notice of this meeting.

.....
.....
.....
} *Trustees.*

C.O., c. 75, s. 81.

91. No act or proceeding of any board shall be deemed valid or binding on any party which is not adopted at a regular or special meeting at which a quorum of the board is present. Corporate acts

(2) A majority of the board shall form a quorum. C.O., c. 75, s. 80. Quorum

(3) Any contract or agreement made by the board for the sale, transfer or hypothecation of any debentures or any interest therein, made before the board of trustees have been authorized to borrow the money represented by such debentures, as provided in section 128 hereof, shall be null and void. 1914, c. 13, s. 1.

(4) The purchase of furniture, equipment and supplies required for the initial operation of the first school in any new school district shall be subject to the approval of the Minister, and any contract for the purchase of the same entered into without such approval shall be null and void. 1914, c. 13, s. 1.

One trustee not to act

92. If the number of trustees be reduced to one that one shall immediately take the necessary steps to fill the vacancies in the board but he shall not transact any other business of the district.

Motions

93. All questions shall be submitted to the board on the motion of the chairman or any other trustee and no seconder shall be required.

Votes of trustees

94. At all meetings of the board all questions shall be decided by the majority of the votes and the chairman shall have the right to vote but in case of an equality of votes the question shall be decided in the negative.

Chairman *pro tem*

(2) In case of the absence of the chairman from any meeting of the board the trustees present shall elect one of their number to act as chairman of the meeting. C.O., c. 75, ss. 78 (2), 79.

Duties of Trustees and Their Officers.

Duties of trustees

95. It shall be the duty of the board of every district and it shall have power—

Appoint officers

1. To appoint a chairman, a secretary and treasurer or a secretary-treasurer and such other officers and servants as may be required by this Ordinance;

Procure seal

2. To procure a corporate seal for the district;

Reports

3. To see that all the reports and statements required by this Ordinance or by the Minister are transmitted to the department without delay;

Records and accounts

4. To keep a record of the proceedings of each meeting of the board signed by the chairman and secretary and see that true accounts both of the school and district are kept and that the affairs of the district generally are conducted in the manner provided by this Ordinance and with due regard to efficiency and economy;

Books

5. To provide the officers of the board with the books necessary for keeping proper records of the district;

Property

6. To take possession and have the custody and safekeeping of all the property of the district;

School accommodation

7. To provide adequate school accommodation for the purposes of the district with power at their discretion to supply text books, exercise books, pencils or other school supplies, or any of them, either free of charge or at a price to be fixed by the board. 1915, c. 10, s. 1 (7); 1915, c. 10, s. 1 (7).

School grounds, buildings and equipment

8. To purchase or rent school sites or premises and to build, repair, furnish and keep in order the school house or houses,

furniture, fences and all other school property; to keep the well, closets and premises generally in a proper sanitary condition; and to make due provisions for properly lighting, heating, ventilating and cleaning the school room or rooms under its control and if deemed advisable to purchase or rent sites or premises for a house for the teacher and to build, repair and keep in order such house; and subject to the approval of the Minister to dispose of school property, real or personal, when no longer required for the purposes of the district. 1910 (2nd Session), c. 6, s. 21. Sale of property

9. To provide wholesome drinking water for the use of the children during school hours; Drinking water

10. To provide separate buildings for privies for boys and girls. The buildings shall be erected in the rear of the school house at least ten feet apart, their entrances facing in opposite directions or otherwise effectually screened from each other; Privies

11. To erect and keep in order if deemed advisable, suitable stabling accommodation; Stable

12. To insure and keep insured the school buildings and equipment; Insurance

13. To provide when deemed expedient a suitable library for the school and to make regulations for its management; Library

14. To select and provide from the list authorized by the Minister all such reference books for the use of pupils and teachers and all such globes, maps, charts and other apparatus as may be required for the proper instruction of pupils; Reference books and apparatus

15. To require that no text books or apparatus be used in the school under its control other than those authorized by the department; Authorized

16. To exempt in its discretion from the payment of school taxes wholly or in part any indigent person resident within the district and where deemed necessary to provide for the children of such persons text books or other supplies at the expense of the district; Indigent persons

17. To engage a teacher or teachers duly qualified under the regulations of the department to teach in the school or schools in its charge on such terms as it may deem expedient; the contract wherefor shall be in writing and may be in form prescribed by the Minister and a certified copy of such contract shall forthwith be transmitted to the department; Engage teacher

18. To suspend or dismiss any teacher for gross misconduct, neglect of duty or for refusal or neglect to obey any lawful order of the board and to forthwith transmit a written statement of the facts to the department; Suspend or dismiss teacher

19. To see that the school is conducted according to the provisions of this Ordinance and the regulations of the department; Conduct of school

20. To provide for the payment of teachers' salaries at least once in every three months; Teacher's salary

21. To make regulations for the management of the school subject to the provision of this Ordinance and to communicate them in writing to the teacher; Management of school

22. To provide in the case of graded schools when deemed expedient at what times pupils may be admitted to Standard I of Primary grade; 1910 (2nd Session), c. 6, s. 22. Admit Standard I pupils

23. To settle all disputes arising in relation to the school between the parents or children and the teacher; Disputes

Suspend or expel pupils

24. To suspend or expel from school any pupil who upon investigation by the board is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well-being of the school;

Truancy

25. To see that the law with reference to compulsory education and truancy is observed;

General

26. To perform such other duties as may be required by this Ordinance or the regulations of the department. C.O., c. 75, s. 72; 1910 (2), c. 6, ss. 21, 22.

95*a*. The board of every town district shall at its discretion have power—

Special departments

1. To provide, equip and maintain such room or rooms as may be required and to employ suitable teachers for giving instruction in manual training, domestic science, physical training, music and art;

Health officer

2. To employ a health officer and prescribe his duties;

Superintendent

3. To employ, subject to the regulations of the Department of Education, a superintendent of schools. 1910 (2), c. 6, s. 23.

4. To furnish the pupils with luncheon at the noon hour, either free of charge or at a price to be fixed by the board. 1915, c. 10, s. 1 (8).

95*b*. The board of every village district shall at its discretion have power to employ a health officer and prescribe his duties. 1913, c. 19, s. 12.

Duties of chairman

96. It shall be the duty of the chairman of the board—

1. To have the general supervision of the affairs of the district;

2. To certify all accounts against the district passed by the board before such accounts are paid by the treasurer. C.O., c. 75, s. 82.

Duties of secretary

97. It shall be the duty of the secretary or secretary-treasurer of the board—

Minutes

1. To keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose and see that the minutes when confirmed are signed by the chairman;

Correspondence

2. To conduct the correspondence of the board as he may be directed by the board;

Books and papers of district

3. To have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the board during his term of office and deliver the same to the chairman on ceasing to hold office;

Reports to department

4. To faithfully prepare and duly transmit to the department such reports and statements and such other information in regard to the district as may from time to time be required by the Minister and in such form as may be provided by the Minister;

Call meeting of board

5. To call at the request in writing of the chairman or any trustee a meeting of the board;

Produce books and papers

6. To produce the minute and other books, assessment rolls and all papers and other records of the board for inspection when required by an inspector to do so;

7. To prepare the statement of the trustees to be submitted at the annual meeting of the ratepayers; Prepare statement

8. To give the notice required by this Ordinance of each annual meeting of the ratepayers and to call special meetings of the ratepayers as provided by section 80 of this Ordinance. C.O., c. 75, s. 83. Notices

98. It shall be the duty of the treasurer or secretary-treasurer of the board of a town district—(1913 (2nd Session), c. 16, s. 1.) Duties of treasurer

1. To give security to the board before entering upon his duties by a bond signed and acknowledged in duplicate before a commissioner, notary public or justice of the peace and such securities shall be given by at least two solvent sureties jointly and severally to the satisfaction of the board or he may furnish in lieu thereof a guarantee bond from any guarantee company authorized to do business in Canada to the amount of any moneys for which the treasurer may at any time be responsible whether arising from the school fund or from any particular contribution or donation paid into his hands for the support or benefit of the district and such security shall be renewed at the beginning of each year or renewed at other times or changed whenever renewal or change is required by the board; the members of any board failing to take such bond or security from its treasurer shall be jointly and severally liable for his default to the extent of the sum for which such bond should have been taken: Treasurer's bond. Renewal of bond. Liability of trustees

Provided that when the majority of the board refuse or neglect to take security from the treasurer on the demand of any trustee such demand being duly recorded in the minutes such trustee shall be relieved from all personal liability in case of the default of such officer; such bond may be in form prescribed by the Minister and a duplicate copy thereof shall be forthwith transmitted by the board to the department; Form of bond

2. It shall be the duty of the treasurer or secretary-treasurer of the board of every school district to receive all school moneys collected from the ratepayers or other persons for the purposes of the district of which he is treasurer and to disburse such moneys in the manner directed by the board; Receive school moneys

3. To pay all accounts against the district only when they are certified by the chairman of the board; Pay accounts

4. To keep in a cash book provided for the purpose a complete and detailed record of all moneys received and disbursed for school purposes including government grants which may have been paid directly to the teacher; Keep cash book

5. To give and take receipts for all school moneys received and paid out and to keep on file all vouchers of expenditure; Receipts

6. To close and balance the books of the district at the end of the school year which shall be on the 31st day of December in each and every year; Close books

7. To produce when called for by the trustees, auditor, school inspector or other competent authority all books, vouchers, papers and moneys belonging to the district and to hand over the same to the trustees or any person named by them upon his ceasing to hold office; Produce books and vouchers

8. To prepare at the end of each year and in the manner provided by this Ordinance a statement of the finances of the district to be submitted to the annual meeting of the ratepayers; Prepare statement

Reports to department

9. To faithfully prepare and duly transmit to the department such reports and statements with reference to the finances of the district as may from time to time be required by the Minister and in such form as may be provided by the Minister. C.O., c. 75, ss. 90, 91.

10. The treasurer of every village or rural school district shall upon his appointment and before entering upon the duties of his office furnish a bond or covenant of some guarantee company to be named by the Minister to secure the due accounting by him for all school moneys and property that come to his hands as such treasurer which bond shall be in such form and for such amount as shall be approved of by the Minister and the Minister shall pay the premiums for such guarantee bond or insurance and deduct the amount thereof annually from the legislative grant to each school district; and in every case in which such guarantee company declines for any cause to give such bond or covenant in respect of any treasurer of a school district it shall be the duty of the trustees forthwith to appoint another treasurer who can furnish such bond; and the retiring treasurer shall in such case have no right to receive any salary as such beyond the proportionate part of his salary up to the time of such retirement; every such bond shall be deposited and kept in the Department of Education for the benefit of the school district. 1913 (2nd Session), c. 16, s. 1.

Half-Yearly and Yearly Returns.

Returns to department

99. The board of every district shall cause to be prepared by the proper officers of the district and transmitted to the department the half-yearly and yearly returns respecting attendance and classification of pupils and the finances of the district which returns shall be in form prescribed by the Minister.

Penalty for neglect to forward returns

(2) In case the board of any district neglects or refuses to have prepared and transmitted to the department such half-yearly and yearly returns within thirty days from the close of the half-year or year, as the case may be, such district shall forfeit the sum of $10 out of any government grant which may have been earned and to which the district is entitled for each week that the returns are delayed and the trustees through whose neglect or refusal such sums have been forfeited shall be jointly and severally responsible for the amount thus lost to the district which amount may be recovered by action in the District Court of the judicial district in which the school district is situated by any person authorized by the Minister to bring such action: 1910 (2nd Session), c. 6, s. 24.

Liability of trustees

Provided, however, that in case it can be shown to the satisfaction of the Minister that any delay in making such half-yearly or yearly returns has been caused by the failure of the auditor of the municipality to audit the books and accounts of the district as provided by section 83 of *The School Ordinance*, the Minister may order that the amount so forfeited or any part thereof shall be paid by the municipality to the district and the same shall be payable forthwith. C.O., c. 75, s. 116 (4); 1910 (2), c. 6, s. 24; 1913, c. 19, s. 13.

(3) Every college, school or other educational institution not being a school as defined by this Ordinance shall within thirty days from the 31st day of December of each year furnish to the department in such form as the Minister may prescribe a yearly return giving information with respect to the pupils, teachers, curriculum and equipment of such college, school or educational institution. 1913 (2nd Session), c. 16, s. 1.

Resignation of Trustees.

Notice of resignation

100. Any trustee wishing to resign may do so by sending notice in writing to the remaining member or members of the board who shall immediately take the necessary steps to fill the vacancy and such resignation shall only take effect upon the election of a new trustee.

(2) A trustee who resigns his office may be re-elected with his own consent. C.O., c. 75, s. 74.

Disqualification of Trustees.

Seat vacated by conviction for crime, etc.

101. Any trustee who is convicted of an offence punishable by imprisonment for a term of five years or greater or becomes insane or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes or ceases to be an actual resident within the district for which he is a trustee shall *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election to fill any vacancy thus created. 1913 (2nd Session), c. 16, s. 1.

Seat vacated by interest in contract corporation

102. No trustee shall take or possess any pecuniary interest profit or promise or expected benefit in or from any contract, agreement or engagement either in his own name or in the name of another with the corporation of which he is a member or shall receive or expect to receive any compensation for any work, engagement, employment or duty on behalf of such corporation except as secretary-treasurer or for a school site.

Application to judge to have trustee ousted of office

(2) Any trustee violating any of the provisions of this section shall thereby forfeit his seat and any two or more ratepayers of the district may at any time upon their several affidavits disclosing facts from which it appears that a trustee or trustees is or are guilty of a violation of this section or of gross neglect of duty or negligently or wilfully fails or fail to carry out the provisions of the school law or is or are for any other reason whatever which reason need not be of a nature similar to those herein specified unfit to act as trustee or trustees and upon payment into court of the sum of $15 as security for costs to abide the event of the application apply to the judge of the District Court of the judicial district within which such district is wholly or mainly situated for a summons calling upon such trustee or trustees to show cause why he or they should not be ousted of the office; and where upon the return of the summons it appears to the judge by affidavit or oral evidence that such trustee or trustees or any of them is or are guilty of gross neglect of duty or negligently or wilfully fails or fail to carry out the provisions of the school law or is or are for any other reason as aforesaid

unfit to act as trustee or trustees or any of them to be ousted of the office and such trustee or any of them shall thereupon become and be ousted of such office or the judge may discharge the summons and in either case with or without costs; provided, however, that the proceedings herein provided to be taken by any two or more ratepayers may be taken by a school inspector in which case it shall not be necessary to deposit any sum as security for costs. C.O., c. 75, s. 71; 1910 (2), c. 6, s. 25; 1913 (2nd Session), c. 16, s. 1.

(3) Any trustee so ousted of office shall not within three years thereafter be eligible for election as trustee in any school district. 1913 (2nd Session), c. 16, s. 1.

Elections to Fill Vacancies.

Time of election

103. When any vacancy is created in the board of any village or rural district it shall be the duty of the remaining trustee or trustees in office to forthwith call a special meeting of the ratepayers of the district to elect the required number of trustees to complete the board:

Provided that if any vacancy is not filled within one month the Minister may appoint some qualified person to fill the same. C.O., c. 75, s. 75.

Conduct of election—rural and village districts

104. In rural and village districts the election of a trustee to fill any vacancy shall only be held at a special meeting called for the purpose and in the same manner as at the annual meeting except that nominations shall be received by the chairman for thirty minutes from two o'clock in the afternoon and the poll shall remain open for two hours after nominations close.

Town districts

(2) In town districts the election of a trustee to fill any vacancy shall be held in the same manner as is provided by this Ordinance for the annual election of trustees in town districts. C.O., c. 75, s. 75 (2); 1910 (2), c. 6, s. 26.

Term of office of new trustee

105. A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected and he shall within ten days after his election take the declaration of office provided for in section 37 of this Ordinance.

BORROWING POWERS OF DISTRICT.

By Note.

For current expenses

106. The board of any village district or of any consolidated district or of any rural district outside of an organized rural municipality may, by resolution or by-law, authorize its chairman and treasurer to borrow from any person, bank or corporation such sums as the board deem necessary to meet the expenditure of the district until such time as the taxes for the current year are available and the amount so borrowed shall be a charge upon the taxes due the district, and may be secured by the promissory note or notes of the chairman and treasurer, given on behalf of the board:

Provided that the board of any rural district that is partially outside of an organized rural municipality shall have the power

to borrow as herein provided on the security of the taxes on that portion of said district outside of such municipality. 1915, c. 10, s. 1 (9).

106*a*. The board of a town district shall have power, by resolution or by-law, to borrow from any source such sums as the board deem necessary and to hypothecate as security for said sums any debenture or debentures which have been duly registered and countersigned as required by sections 129 and 130 of this Ordinance. 1915, c. 10, s. 1 (9).

106*b*. The board of a town district or a rural district situate wholly or in part within an organized rural municipality shall have power, by resolution or by-law, on receiving the written consent of the Minister, to borrow from any person, bank or corporation such sums as the board may deem necessary and the Minister may approve, and the amount so borrowed may be made a charge on the moneys due such school district, and such sum may be secured by the promissory note or notes of the chairman and treasurer, given on behalf of the board, or such form of assignment or covenant as may be fixed by such resolution or by-law. 1915, c. 10, s. 1 (9).

By Debenture.

For school site, buildings, etc.

107. Should it appear desirable to the board of any district that a sum of money should be borrowed upon the security of the district for securing, purchasing, adding to, extending or improving a school site or sites or a site for a teacher's house or for securing a water supply or for purchasing, repairing, moving, erecting, furnishing or adding to any school building or teacher's house and in consolidated school districts for the additional purpose of purchasing conveyances or for all or any of the said purposes it shall pass a by-law to that effect which may be in form prescribed by the Minister or to the like effect and shall be under the corporate seal of the district. 1915, c. 10, s. 1 (10).

(2) A copy of every such by-law shall be inscribed in the minute book containing a record of the board's proceedings. 1913, c. 19, s. 14.

Notice of intention to borrow

108. Within five days after the passing of the by-law the board shall give notice of its intention to apply to the Minister for authority to borrow the amount specified in the by-law and on the conditions therein set forth. 1913, c. 19, s. 15.

(2) Every such notice shall be in form prescribed by the Minister and shall be given by notices posted up in at least five widely separated and conspicuous places in the district one of which shall be a post office situated therein and should there be no post office in the district a sixth notice shall be posted in the post office nearest thereto.

Additional notice in town district

(3) In the case of a town school district a copy of the notice provided for in the preceding subsection shall be printed in at least three issues of a newspaper or newspapers published within the limits of the school district and if there be no newspaper published within the school district then in the newspaper whose place of publication is nearest thereto. 1910 (2), c. 6, s. 28; 1913, c. 19, s. 15.

Demand for poll

109. A poll of the ratepayers for and against the by-law may be demanded within fifteen days after the date of the posting of the notices in the next preceding paragraph mentioned, by a demand in writing signed by twenty ratepayers of the district in a town district, ten in a village district or four in a rural district, and such poll shall be held as hereinafter provided in sections 113 to 121:

Provided, however, that no poll can be demanded if the amount to be borrowed is for the purpose of providing a first schoolhouse for the district and does not exceed $1,200.

(2) Every demand for a poll shall be delivered to the secretary of the district or in his absence to the chairman of the board and a certified copy of the demand shall be forthwith transmitted to the department. 1913, c. 19, s. 16.

Authorization of loan by Minister when no poll held

110. In the event of a poll not being required or not being demanded as hereinbefore provided the secretary of the board shall transmit to the Minister—

1. A certified copy of the by-law;
2. A certified copy of the notice provided in section 108 hereof and a statutory declaration proving posting of notices;
3. A statutory declaration stating the amount of assessable land in the district if a rural district or the assessed value of the real property in the district as shown by the last revised assessment roll if a town or village district; or one which has been declared a village district for assessment purposes; and upon receipt of the same and upon being satisfied that the several conditions required by this Ordinance have been substantially complied with the Minister may in writing authorize the board of trustees to borrow the sum or sums of money mentioned in the by-law or a less sum and shall publish notice of authorization in the official gazette. 1915, c. 10, s. 1 (11).

Notice of polling

111. In the event of a poll being demanded as provided by section 109 hereof the board shall by resolution fix the time and place for holding the same and shall give notive in form prescribed by the Minister or to the like effect of such time and place of polling by notices posted up in at least five widely separated and conspicuous places throughout the district at least fourteen clear days before the polling one of which notices shall be posted in the post office situated within the district and should there be no post office a sixth notice shall be posted in the post office nearest thereto. 1903 (2), c. 27, s. 7.

Copy of by-law and notice for department

112. A certified copy of the by-law and of the notice of polling shall be forwarded forthwith to the Minister by the secretary of the board. C.O., c. 75, s. 199.

Returning officer and poll clerk

113. The chairman of the board or some person appointed by it shall be returning officer for the poll to be taken and the secretary of the board or some person appointed by the returning officer shall be poll clerk. C.O., c. 75, s. 200.

Opening poll

114. At the time and place appointed in the notice the returning officer shall declare the poll open and the poll clerk shall record the votes as they are given in a poll book which may be in form F in the schedule to this Ordinance. C.O., c. 75, s. 201 in part.

Post notice

115. A copy of the notice of polling shall be kept in a conspicuous place where the vote is taken. C.O., c. 75, s. 201 in part.

Voters

116. Every ratepayer except the returning officer shall be entitled to vote on the by-law. C.O., c. 75, s. 201; 1903 (2), c. 27, s. 8; 1910 (2), c. 6, s. 29; 1913, c. 19, s. 17.

Scrutineers

117. The returning officer shall admit any two ratepayers who have respectively voted yea and nay into the polling place to act as scrutineers and on demand allow either or both of them to see any vote recorded in the poll book. C.O., c. 75, s. 201 in part.

Voter's declaration

118. The returning officer shall if requested by any ratepayer or of his own accord require any person tendering a vote to subscribe to the declaration in form B (*c*) in the schedule to this Ordinance and any person subscribing to such declaration shall be permitted to vote.

(2) Every such declaration shall be subscribed to in the presence of the returning officer and poll clerk who shall subscribe their names as witnesses thereto.

(3) All declarations made under the provisions of the next preceding section shall be retained by the returning officer.

Record refusal to take declaration

119. If a person who desires to vote refuses or fails to sign the declaration when required to do so the poll clerk shall write in the column headed "remarks" in the poll book the words "refused declaration" and the person so refusing shall at once leave the polling place and shall not be allowed to enter it again or vote.

Penalty—false declaration

120. Any person subscribing to a declaration form B (*c*) containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10.

Closing poll

121. At the time appointed in the notice of voting the returning officer shall close the poll, sum up the votes and declare the result.

(2) In the case of a tie the returning officer shall give a casting vote. C.O., c. 75, s. 201.

Complaints re conduct of poll

122. Should any ratepayer of the district make a complaint in writing to the returning officer within three days next after the taking of the poll with regard to the manner in which the poll was conducted, the right of any preson to vote or the result of the voting the returning officer shall forthwith notify such ratepayer in writing of the time and place within seven days of the day of voting when he shall appear before a justice of the peace for a final recount of votes when all complaints which may have been made shall be heard.

Returning officer's returns to Minister

123. In case no such complaint is duly lodged with the returning officer he shall at the expiration of three days after the taking of the poll forthwith forward to the Minister a certified copy of the poll book showing the total number of votes cast for and against the by-law and he shall make an affidavit which shall be inscribed thereon that the poll was conducted throughout

in the manner provided by this Ordinance or with such exception as he shall mention that the returns contained therein are correct and that no complaints as provided for by the next preceding section were received by him.

Proceedings before justice of peace

124. In the event of any complaint being made as aforesaid the returning officer shall appear before a justice of the peace at the time and place appointed and he shall deliver to the justice of the peace the poll book used by him at the poll and shall make an affidavit before the justice of the peace which shall be written in or upon such book that the election has been conducted throughout in the manner provided by this Ordinance or with such exception as he shall mention and that the returns contained therein are correct.

(2) The justice of the peace shall then receive and record in writing any complaint that may be made under oath by any person relative to the conduct of the voting and shall examine into and decide such complaints by taking evidence under oath. C.O., c. 75, s. 202.

Security for costs

125. Before proceeding to the hearing of any complaint the justice of the peace shall require the complainant to deposit with him such sum not being less than $25 nor more than $100 as may seem necessary to him to cover the costs of the hearing of the complaint which costs shall be paid according to the decision of such justice of the peace.

Proceedings essentially irregular

126. If it be found that the proceedings in taking the vote have been irregular in any essential particulars and that injustice has thereby been done the poll shall be declared null and void and of no effect and the justice shall forthwith forward to the department a full report to that effect.

Corrupt practices

(2) If it be found that any vote has been cast by any person not duly qualified to vote or on account of bribery or intimidation it shall be struck off the poll book. C.O., c. 75, s. 204.

Return by justice of peace to department

127. When all complaints have been heard and decided upon and the corresponding alterations duly made in the poll book the justice of the peace shall finally sum up the votes cast and shall forward to the department a return in form G in the schedule hereto or to the like effect showing the total number of votes taken and the number remaining on each side after the recount. C.O., c. 75, s. 205.

Approval of Minister

128. Upon receipt of the return mentioned in section 123 or section 127 hereof and upon being satisfied that the several conditions required by this Ordinance have been complied with the Minister may in writing authorize the board of trustees to borrow the sum or sums of money mentioned in the by-law or a less sum and shall publish notice of authorization in the official gazette. The board may thereupon issue a debenture or debentures to secure the amount of the principal and interest of the loan so authorized or of any less sum upon the terms specified in the by-law and the debenture or debentures and the coupons thereto shall when signed by the chairman and treasurer of the district and the said debenture or debentures countersigned by the Minister as provided for in section 130 hereof be sufficient to bind the district and

create a charge or lien against all school property or rates in the district. 1910 (2), c. 6, s. 30; 1913 (2nd Session), c. 16, s. 1.

Limit of debentures

(2) The total face value of the debentures issued by any village or town or consolidated district or any district which has been declared a village district for assessment purposes shall not be for a greater sum than fifteen per centum of the total assessed value of the real property within such district as shown by the last revised assessment roll of the district nor by any rural district for a greater sum than twenty-five cents per acre for each acre assessed as shown by the last revised assessment roll of the district or in case there has been no revised assessment roll for each acre assessable as shown by the statutory declaration required by paragraph 3 of section 110. 1903 (2), c. 27, s. 9; 1913, c. 19, s. 18; 1915, c. 10, s. 1 (12).

Term of debenture

(3) Debentures shall not run for a longer term than twenty years if the school buildings are of brick, brick veneer, concrete or stone nor for a longer period than ten years if the buildings are frame or log:

Provisos

Provided that in the event of the first instalment of principal and interest of any debenture being made payable at any time after one year from the date of the debenture as provided by section 10 of chapter 27 of the Ordinances of 1903 (2nd Session) such debenture may run for such longer term than ten, twenty or thirty years, as the case may be, as may be necessary to allow of repayment in ten, twenty or thirty years, as the case may be, from the date of the payment of the first instalment of principal and interest:

Provided further that in the case of town districts the debentures thereof may be made to run for a term not exceeding thirty years if the school buildings are of solid brick, concrete or stone. c. 9, 1904, s. 1:

Provided further that in the case of a town district, debentures issued for the purpose of purchasing a school site or sites may be made to run for a period not exceeding thirty years; 1910 (2nd Session), c. 6, s. 31:

Provided further that in the case of a school district within which an incorporated city is in whole or in part situated, debentures for school buildings or school sites may be made to run for a term not exceeding forty years if the school buildings are of solid brick, concrete or stone. 1904, c. 9, s. 1; 1910 (2), c. 6, s. 31; 1913 (2nd Session), c. 16, s. 1.

Interest

(4) Debentures shall not carry interest at a greater rate than eight per centum per annum.

Date and form of debenture

(5) Debentures may be dated at any time within twelve months from the date on which notice of the authorization of the loan appears in the official gazette and the first instalment of principal and interest may be made payable at any time within eighteen months of the date of the debenture and the debenture shall be in the following form or to the like effect:

$..... Debenture No.....

School District No.....of the Province of Alberta.

The Board of Trustees (*or* Official Trustee *as the case may be*) of.....
.....School District No.....of the Province of Alberta promise to pay the bearer at the.....at
.....the sum of.....dollars of lawful money of Canada in.....equal consecutive annual

instalments with interest at the rate of.....per cent. per annum on the terms and in the amounts specified in the coupons attached hereto.
Dated this.....day of.....19.....

A.B.
Chairman.
C.D.,
Treasurer (or Official Trustee).

COUPONS.

Coupon No.....
Debenture No.....
The Board of Trustees of.....School District No.....of the Province of Alberta (*or* Official Trustee *as the case may be*) will pay to the bearer at the.....
on the.....day of.....19....., the sum of.....dollars being the.....instalment of principal with the total interest at the rate of.....per cent. per annum due on that day on School Debenture No.....

A.B.,
Chairman.
C.D.,
Treasurer (or Official Trustee).

1903 (2), c. 27, s. 10; 1910 (2), c. 6, s. 1.

Proviso

Provided that in the case of an issue of debentures amounting to at least $2,000, the board may in its discretion issue debentures the coupons of which provide for the payment of interest only, and there shall be sufficient consecutively numbered coupons to cover the instalments of interest payable on each debenture in each of the years during which the respective debentures run, and the amount of the principal sum payable in any year shall be the same as the amount of such principal sum payable in any other year during the debenture period. Such debentures shall be in the following form or to the like effect: (1910 (2nd Session), c. 6, s. 32; 1914, c. 13, s. 1.)

PROVINCE OF ALBERTA.

$..... $.....
Canadian Currency. Transferable.
The.....School District No.....
of the Province of Alberta.
Debenture No.....
The Board of Trustees (*or* Official Trustee, *as the case may be*) of the School District No.....of the Province of Alberta, promise to pay to the bearer at the.....
at.....the sum of.....dollars of lawful money of Canada on the.....day of.....
19....., with interest at the rate of.....per cent. per annum on the terms and in the amounts specified in the coupons attached hereto.
Countersigned.....19.....

.....
Chairman.
.....
Minister of Education. *Treasurer.*
Dated this.....day of.....19.....

COUPONS.

Coupon No..... Debenture No.....
The Board of Trustees of the.....School District No.....of the Province of Alberta will pay to the bearer at the.....at.....on the.....
day of.....19....., the sum of $.....
being the half-yearly or annual (*as the case may be*) instalments of interest at the rate of.....per cent. per annum due on that day on School Debenture No.....

.....
Chairman.
.....
Treasurer.

1910 (2), c. 6, s. 32; 1914, c. 13, s. 1.

(6) A debenture for the whole amount or for a less amount than that mentioned in the by-law, or a series of debentures aggregating such full amount or aggregating a less amount than is so mentioned, may be issued, but whenever a series of debentures is so issued of the same denomination and at the same time, each of the series shall be distinguished by a mark or symbol different from the mark or symbol appearing on the other debentures of the same issue, and the said marks or symbols respectively shall appear on the coupons attached to the debentures respectively bearing the like mark or symbol. 1910 (2nd Session), c. 6, s. 33. Symbol to distinguish each of series

(7) The board of a school district within the limits of which an incorporated city is in whole or in part situated on complying with the provisions of this Ordinance, when the amount to be borrowed exceeds the sum of $20,000, may in its discretion issue debentures repayable in yearly sums which shall be of such amount that the aggregate amount payable for principal and interest in any year shall be equal as nearly as possible to the amount payable for principal and interest in each of the other years, during which the debentures are to run, and the by-law authorizing the issue of said debentures shall state the specific sum to be paid each year for principal and for interest, and a separate debenture, each of which shall be numbered consecutively (without any coupons), shall be issued for the aggregate amount payable each year for principal and interest. The said debentures may be in the following form or to the like effect: (1910 (2nd Session), c. 6, s. 33.) Alternative form of debenture

DOMINION OF CANADA,

PROVINCE OF ALBERTA.

$..... $.....

Debenture No.....

The.....School District No.....of the Province of Alberta.

The Board of Trustees of the.....School District No.....of the Province of Alberta promises to pay the bearer at the.....on the.....day of.....the sum of.....dollars ($.....) of lawful money of Canada.

Dated this.....day of.....A.D. 191...

.....
Chairman.

[SEAL]
Treasurer.

1910 (2), c. 6, s. 33; 1911-12, c. 4, s. 7.

(8) The board of a school district within the limits of which an incorporated city is in whole or in part situated when the amount to be borrowed is at least $100,000, may in its discretion by by-law provide that the sum borrowed shall be made payable in such manner that the principal shall be made repayable at the end of the period of years for which the debentures are to run together with interest thereon to be paid annually or semi-annually as the board may by by-law provide: 1913 (2nd Session), c. 16, s. 1.

Provided, however, that if the indebtedness is to be made payable by debentures payable in the manner set forth in this subsection there shall be raised annually during the said period

by way of a sinking fund an equal sum sufficient with accumulated interest thereon to retire the debentures at maturity and interest thereon annually or semi-annually.

Such debentures shall be in the following form or to the like effect:

DOMINION OF CANADA,

PROVINCE OF ALBERTA.

Debenture No..... $.....
The.....School District No.....of the Province of Alberta.
The Board of Trustees of the.....School District No.....of the Province of Alberta, promises to pay the bearer at.....in the.....or at in the....., dollars of lawful money of Canada on the.....day of..... 191....., and to pay to the bearer the amount of each of the several interest coupons hereto attached as the same shall respectively become due.
Dated this.....day of.....A.D. 19.....
Countersigned.....19.....
.....
Minister of Education.

.....
Chairman.

.....
Treasurer.

and the coupon may be in the following form:

Coupon No.....
Debenture No.....
The Board of Trustees of the.....School District No.....of the Province of Alberta will pay to the bearer at.....or at.....on the.....day of.....19....., the sum of $.....

.....
Chairman.

.....
Treasurer.

(9) The board may from time to time invest the moneys accruing in said sinking fund for such period or periods, not exceeding in the whole the term of the debentures, and in such manner as it may deem expedient, in securities authorized for the investment of trust moneys by *The Trustee Ordinance*, being chapter 11 of the Ordinances of the North-West Territories 1903 (2) and amendments thereto, and such other securities as the Minister may approve, provided that such investments are in other respects reasonable and proper. 1913, c. 19, s. 18.

(10) Any form of debenture other than prescribed by this Ordinance may be used if approved by the Minister. 1914, c. 13, s. 1.

Registration

129. Every debenture before being issued shall be sent for registration to the Minister who shall cause a proper record to be kept of the same.

Minister shall countersign

130. The Minister shall thereupon if satisfied that the requirements of this Ordinance have been substantially complied with and if the authority to make the loan has not been withdrawn register and countersign the debenture and such countersigning by the Minister shall be conclusive evidence that the district has

been legally constituted and that all the formalities in respect to such loan and the issue of such debenture have been complied with and the legality of the issue of such debenture shall be thereby conclusively established and its validity shall not be questionable by any court in the Province of Alberta but the same shall to the extent of the revenues of the district issuing the same be a good and indefeasible security in the hands of any *bona fide* holder thereof. 1910 (2), c. 6, s. 1.

(2) Without restricting the powers of the deputy minister, conferred upon him by *The Public Service Act*, or any other Act or Ordinance, the deputy minister shall have and possess for the purposes of this section all the powers hereby conferred upon the Minister. 1913 (2nd Session), c. 16, s. 1.

Section 130a added

130*a*. Any debentures issued under the provisions hereof and coupons for the interest thereon may be made payable in gold or its equivalent of lawful money of Canada or of Great Britain at any bank or banks, place or places to be named in Great Britain, the United States of America, or Canada, and may provide for the payment of the interest either yearly or half-yearly. 1914, c. 13, s. 1; 1911-12, c. 4, s. 7; 1913, c. 19, s. 19.

Debentures may be payable in sterling money, etc.

(2) The signatures on such coupons may be engraved or lithographed. 1911-12, c. 4, s. 7.

CONDUCT OF SCHOOLS.

Fees.

Free school

131. No fees shall be charged by the board of any district on account of the attendance at its school of any child whose parent or lawful guardian is a taxpayer of the district:

Proviso

Provided, however, that in case such parent or lawful guardian is a nonresident of the district and the amount of taxes paid or payable by him to the district for the then current year, or in the case the taxes for such year are not levied then for the year last past is less than $8 the board may before admitting to its school the child or children, ward or wards of such parent or lawful guardian require the payment of a fee for the school year equal to the difference between the said sum of $8 and the amount of such taxes or in case a portion of the school year shall have passed, then a proportionate part of such fee for the remainder of the school year: 1910 (2), c. 6, s. 34.

Fees for pupils above public school leaving

Provided further that if the board of any district maintains one or more departments in its school exclusively for pupils who have passed the public school leaving examination prescribed by the Department of Education, or who possess scholarship equivalent thereto, it may charge the parent or lawful guardian of any pupil in attendance at any such department a fee not exceeding nine dollars for the first term and six dollars for the second term in any year if such parent or lawful guardian is a resident taxpayer of the district and in case such parent or lawful guardian is not a resident taxpayer of the district a fee not exceeding thirteen dollars for the first term and eight dollars for the second term and all such fees shall be payable at such times and in such amounts as may be determined by the board. C.O., c. 75, s. 113; 1903 (2), c. 27, s. 11; 1910 (2), c. 6, s. 35.

School Terms.

Two terms

132. The school year shall begin on the first day of January and end on the thirty-first day of December and shall be divided into two terms ending the thirtieth day of June and the thirty-first day of December respectively. C.O., c. 75, s. 106.

Hours.

School hours and recess

133. School shall be held between nine o'clock and twelve o'clock in the forenoon and half-past one o'clock and four o'clock in the afternoon of every day standard time not including Saturdays, Sundays or holidays but the board may alter or shorten the school hours upon receiving the permission of the Minister.

(2) A recess of fifteen minutes in the forenoon and in the afternoon shall be allowed the children attending school. C.O., c. 75, s. 105.

Vacation and Holidays.

Summer and winter vacations

134. In any school there shall be not less than seven weeks nor more than ten weeks' vacation in rural districts and not less than eight weeks nor more than twelve weeks' vacation in village and town districts. The summer vacation shall fall between the fifteenth day of June and the first day of September, and the winter vacation shall extend from the twenty-fourth day of December to the second day of January, both inclusive:

Provided, however, that the Minister may, on proper representation made to him, allow the board to keep the school open during the periods above mentioned as the time for summer vacation or any part thereof, and allow vacation in lieu thereof at some other time:

Provided further, that the board of a rural district may, by resolution, a copy of which shall be forwarded forthwith to the department, extend the winter vacation not more than four weeks and correspondingly shorten the summer vacation. 1914, c. 13, s. 1.

Holidays

135. New Year's Day, Ash Wednesday, Good Friday, Easter Monday, Arbour Day, being the second Friday in May or in lieu thereof such other day as may in each year be proclaimed a public holiday for the planting of forest and other trees, the twenty-fourth day of May, or when such day falls upon a Sunday, the twenty-fifth day of May (to be known as Victoria Day), the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning Sovereign, Dominion Day, Labour Day, Christmas Day, Thanksgiving Day, and any other day proclaimed as a holiday by the Governor General, the Lieutenant Governor of the province or the mayor of a city or town, shall be holidays; and it shall be at the discretion of the board to permit any other holidays not exceeding one day at a time. 1910 (2), c. 6, s. 37.

Language to be Used.

English language compulsory

136. All schools shall be taught in the English language but it shall be permissible for the board of any district to cause a primary course to be taught in the French language.

(2) The board of any district may subject to the regulations of the department employ one or more competent persons to give instruction in any language other than English in the school of the district to all pupils whose parents or guardians have signified a willingness that they should receive the same but such course of instruction shall not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the department and this Ordinance. Other languages may be taught

(3) The board shall have power to raise such sums of money as may be necessary to pay the salaries of such instructors and all costs, charges and expenses of such course of instruction shall be collected by the board by a special rate to be imposed upon the parents or guardians of such pupils as take advantage of the same. C.O., c. 75, s. 109. Special rate for the purpose

Religious Instruction.

137. No religious instruction except as hereinafter provided shall be permitted in the school of any district from the opening of such school until one-half hour previous to its closing in the afternoon after which time any such instruction permitted or desired by the board may be given. Religious instruction

(2) It shall, however, be permissible for the board of any district to direct that the school be opened by the recitation of the Lord's prayer. C.O., c. 75, s. 110. Time for the Lord's prayer

138. Any child shall have the privilege of leaving the school room at the time at which religious instruction is commenced as provided for in the next preceding section or of remaining without taking part in any religious instruction that may be given if the parents or guardians so desire. C.O., c. 75, s. 111. Attendance not compulsory during religious exercise

139. No teacher, school trustee or inspector shall in any way attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school and any such action on the part of any school trustee, inspector or teacher shall be held to be a disqualification for and voidance of the office held by him. C.O., c. 75, s. 112. No pupil to be deprived of ordinary education

Kindergarten Classes.

140. Kindergarten classes may be established in any school for the teaching and training of children between the ages of four and six years according to kindergarten methods and in such school a fee may be charged not exceeding $1 per month for each pupil to cover cost of maintaining such department. C.O., c. 75, s. 114. Ages and fees

Night Classes.

141. The board of any district may engage a qualified teacher and make necessary arrangements at the expense of the district for the maintenance of a night school: How maintained

Provided that if the school is kept open for one month a fee may be charged of not more than $2 per month for each month or portion of month that the pupil is in attendance. C.O., c. 75, s. 115. Fees

COMPULSORY EDUCATION.

142. No board of trustees shall have authority to close their school for any cause not otherwise provided for without the approval of the Minister. 1913 (2nd Session), c. 16, s. 1.

143. If for any cause other than that of statutory vacations or holidays the board of trustees of any rural or village district closes its school for a period exceeding three days, it shall be the duty of such board through its secretary to report to the department such closing within five days, giving a full statement of the reasons therefor; it shall also be the duty of the board through its secretary to report to the department within five days after the re-opening of the school at the commencement of each term, and also after the re-opening of the school which may have been closed for more than three days for any cause. 1913 (2nd Session), c. 16, s. 1.

144.
145.
146.
147.
148.

Repealed, 1910 (2), c. 6, s. 41. (See *Truancy Act*, 1910 (2), c. 8.

TEACHER.

Qualification.

Trustees to engage qualified teacher

149. No person shall be engaged, appointed, employed or retained as teacher in any school unless he holds a valid certificate of qualification issued under the regulations of the department. C.O., c. 75, s. 99.

(2) Any person not so qualified shall not be entitled to recover in any court of law any remuneration for his services as such teacher. 1913 (2nd Session), c. 16, s. 1.

(3) Any person other than the holder of such certificate of qualification, who undertakes to conduct a school as teacher shall be guilty of an offence and on summary conviction liable to a penalty not exceeding $50.00, and in default, to imprisonment for a term not exceeding one month:

Provided, however, that no prosecution shall be instituted under this section, except on the order of the Minister. 1913 (2nd Session), c. 16, s. 1.

Engagement and Dismissal.

Teacher must be engaged at board meeting

150. A teacher shall not be engaged except under the authority of a resolution of the board passed at a regular or special meeting of the board.

Form of contract

151. The contract entered into shall be in the form prescribed by the Minister and such form may be altered or amended as may be mutually agreed upon by the contracting parties provided

such alterations or amendments are not inconsistent with any of the provisions of this Ordinance or the regulations of the department. C.O., c. 75, s. 72 in part.

Parties signed by

152. The contract shall be deemed valid and binding if signed by the teacher and by the chairman on behalf of the board.

Dismissed teacher may appeal

153. Any teacher who has been suspended or dismissed by the board may appeal to the Minister who shall have power to take evidence and confirm or reverse the decision of the board and in the case of reversal he may order the reinstatement of such teacher:

Provided that in case there is no appeal to the Minister or in the event of an appeal if the decision of the board is sustained the teacher shall not be entitled to salary from and after the date of such suspension or dismissal.

Payment of Teachers.

Every three months

154. Every teacher shall be paid the amount of salary due to him at least once in every three months and it shall be the duty of the board to make due provision for such payment. C.O., c. 75, s. 103 (3)

How to estimate teacher's salary

155. The salary of a teacher who has been engaged in any district for four months or more continuously shall be estimated by dividing the rate of salary for the year by 210 and multiplying the result obtained by the number of actual teaching days within the period of his engagement:

Provided, however, that if the salary stated in the teacher's agreement is given at a monthly rate the rate of salary for the year shall be deemed to be a sum equal to twelve times the said monthly rate: 1910 (2nd Session), c. 6, s. 42.

Provided further that if a teacher has taught more than 210 days in any calendar year he shall be entitled only to a year's salary; and

Provided further that notwithstanding anything herein contained the board of every district shall have power to enter into such contract with its teacher regarding the amount of salary to be paid as may be mutually agreed upon and set forth in the agreement provided herein: 1910 (2), c. 6, s. 42.

Provided, further, that a teacher is entitled to salary for days he is necessarily absent from his school in order to attend any teachers' convention or institute approved by the Minister and for days during which his school is closed by order of a duly qualified medical practitioner or by the board on account of the existence within the district of an actual or threatened epidemic of disease, but such period or periods shall not include in all more than thirty teaching days in the calendar year. 1913 (2nd Session), c. 16, s. 1.

Termination of agreement

(2) Unless otherwise provided for in the agreement either party thereto may terminate the agreement for teaching between the teacher and the board of trustees by giving thirty days' notice in writing to the other party of his or its intention so to do. 1910 (2), c. 6, s. 43.

Salary in case of sickness

156. Every teacher in case of sickness certified by a qualified medical practitioner shall at the termination of his engagement be entitled to his salary during such sickness for a period not to exceed 20 teaching days for the entire year and in case of an engagement for a shorter term than one year, for a period bearing the same proportion to 20 that the term of engagement bears to a year; but the board may at its discretion allow salary for in case of sickness for a greater number of days than that provided herein. 1910 (2), c. 6, s. 44.

Payment of salary

157. A teacher whose agreement with a board has expired or is dismissed by them shall be entitled to receive forthwith all moneys due him for his service as teacher while employed by said board; if such payment be not made by the board or tendered to the said teacher he shall be entitled to recover the full amount of his salary due and unpaid with interest in any court of competent jurisdiction. C.O., c. 75, s. 103 in part.

Duties of Teacher.

158. It shall be the duty of every teacher—

Teaching

1. To teach diligently and faithfully all the subjects required to be taught by the regulations of the department;

Discipline

2. To maintain proper order and discipline and to conduct and manage the school according to the regulations of the department;

Time table

3. To keep in a conspicuous place in the school room a time table which shall show the classification of pupils, the subjects taught each day in the week, the length of each recitation period and the seat work given; and to submit such time table to the inspector for his approval and signature on the occasion of his visit to the school;

Register

4. To keep in the prescribed form the school registers and to give access to them to trustees, officers of the board, inspectors any any other person authorized thereto by the Minister;

Promotions

5. To make at the end of each term or at any other time such promotions from one class or standard to another as he may deem expedient subject to the ratification of the inspector at his next visit;

Public examinations

6. To hold during each year a public examination of his school of which he shall give due notice to the board and through the pupils to their parents or guardians;

Monthly reports

7. To send monthly to the parents or guardian of each pupil if required by the board a report on the pupil's attendance, conduct and progress;

Arbour day

8. To encourage the observance of Arbour Day by holding suitable exercises, to take an interest in the cleanliness and tidiness of the school ground and to secure the co-operation of trustees and parents in planting trees and shrubs about the school;

Sanitary condition of school room

9. To give strict attention to the proper heating, ventilation and cleanliness of the school house and to the condition of the outhouses in connection with the same and to report to the board any defects with respect thereto;

Care of property

10. To exercise vigilance over the school property, the buildings, fences, furniture and apparatus so that they may not receive

unnecessary injury and to give prompt notice in writing to the board of any such injury;

Needed repairs

11. To report to the secretary of the board any necessary repairs to the school buildings or furniture and any required supply of fuel, drinking water, furniture or equipment;

Privies

12. To see that the provisions of clause 10 of section 95 of this Ordinance have been complied with and if not to report to the board and in case of any neglect on the part of the board to notify the Minister;

Contagious diseases

13. To notify the chairman of the board whenever he has reason to believe that any pupil attending school is affected with or exposed to smallpox, cholera, scarlatina, diphtheria, whooping cough, measles, mumps, trachoma or other infectious or contagious disease and to prevent the attendance of any pupils so affected or exposed or suspected of being affected or exposed until furnished with the written statement of a physician or the chairman of the board that such contagious or infectious disease does not exist or that all danger from exposure to any of them has passed away; 1915, c. 10, s. 1 (13).

Suspend pupils

14. To suspend from school any pupil for violent opposition to authority and to forthwith report in writing the facts of such suspension to the board which may take such action with regard thereto as it may deem necessary;

Returns to department

15. To assist the board and its officers in making the prescribed returns to the department;

Give information re school

16. To furnish to the Minister, the inspector of schools, the board or any person appointed by the Minister any information which it may be in his power to give respecting anything connected with the operation of the school or in anywise affecting its interests or character;

Give property

17. To deliver up any school registers, school house key or other property of the district in his possession when required to do so by a written order of the board;

Attend meetings

18. To attend all meetings of the teachers called by the principal where more than one teacher is employed. C.O., c. 75, s. 102.

Duties of Principal.

Principal and assistants

159. In every case in which more teachers than one are employed the head teacher shall be called the principal and other teachers assistants. C.O., s. 75, s. 100.

160. The principal shall prescribe with the concurrence of the board the duties of the assistants and shall be responsible for the organization and general discipline of the whole school. C.O., c. 75, s. 101.

Teachers' Associations.

Meetings subject to regulations

161. Any number of teachers may organize themselves into an association and subject to the regulations of the department may hold conventions and institutes for the purpose of receiving instruction in and discussing educational matters. C.O., c. 75, s. 116 (2).

EDUCATION OF NONRESIDENT CHILDREN.

Application for education of nonresident children

162. The parent or lawful guardian of any child residing outside the limits of any district may apply to the board for the admission of such child to its school and it shall be the duty of the board to admit such child:

Inspector's statement required

Provided always that the board may demand that the application for the admission of any nonresident child be accompanied by statement from the inspector of the district to the effect that the accommodation of the school is sufficient for the admission of such child:

Fees

Provided further that the board may demand from such parent or guardian the payment of school fees at a rate not exceeding four cents per day per family which fees shall be payable monthly in advance and shall be calculated according to the number of actual teaching days in each month.

Resident children

163. The parent or lawful guardian of any child residing within the limits of any district and who is not a taxpayer thereof may send his children to the school operated within the district subject to the second proviso of the next preceding section. 1903 (2), c. 27, s. 11.

Application of nonresident to have property assessed

164. Any person not living within a district may apply to the board of any district to have his or her property if not already included in any other district assessed in such district to secure the advantages of education for his children and in any such case on the report of an inspector that the accommodation of the school room is sufficient for the admission of the children of such person the board shall receive such application and place the said property on the assessment roll of the district and such property shall remain liable to assessment in such district until a new district is established including the said property; and for the purpose of enforcing payment of taxes and of all remedies therefor the said property shall be deemed to be within the school district on whose assessment roll it is placed. C.O., c. 75, s. 12.

Notice to Minister

(2) The board shall whenever the property of any person is placed on the assessment roll of the district under the provisions of this section notify the Minister giving the name of such person and a description of such property. 1910 (2), c. 6, s. 45.

CONVEYANCE OF SCHOOL CHILDREN.

From One District to Another.

Agreement by boards for education of children of another district

165. Upon a petition hereinafter provided for being transmitted to the Minister he may empower the board of any rural district to enter into an agreement with any other board or boards for the education of the children of its district upon such terms as may be mutually agreed upon and approved by him and the board entering into any such agreement shall have full power and authority to make the necessary levy and assessment for the purpose of carrying out the terms of the agreement and for providing for the conveyance of children to and from school under the provisions of *The School Assessment Ordinance:*

Provided that any such agreement may be terminated by any board or party thereto by giving notice on or before the first day of October in any year and upon such notice being given the agreement shall cease and determine on the last day of the month of December following.

(2) The petition for permission to enter into such an agreement may be in form prescribed by the Minister and shall be signed by at least two-thirds of such resident ratepayers of the district as are the parents or guardians of children between the ages of five and sixteen years inclusive.

(3) The statements contained in the petition shall be verified by the affidavit of two of the subscribing petitioners and the signatures of the ratepayers signing the petition shall be verified by the affidavit of a subscribing witness thereto. C.O., c. 75, s. 215.

Regulations for conveyance

166. The Minister may subject to the approval of the Lieutenant Governor in Council make such regulations as are deemed necessary and expedient for the proper conveyance of children as hereinbefore provided and for the keeping of proper records of the number of children conveyed, the distance travelled, the cost of conveyance and such other information as may be desired.

Within the School District.

Cost of

167. The board of any district may make due provision subject to the regulations of the department in that behalf for the proper conveyance of the school children resident within the district to and from school and it shall have power to provide for the cost of such conveyance in the same manner as is provided for the other expenditures of the district.

(2) The secretary of every district in which provision is made as aforesaid shall forthwith notify the Minister.

PENALTIES AND PROHIBITIONS.

Fulfilment of contracts

168. Any board or any member thereof that wilfully neglects or refuses to exercise or to assist in exercising all the corporate powers vested in such board by this Ordinance for the fulfilment of any contract or agreement made by it shall be personally responsible for the fulfilment of such contract or agreement.

Liability of trustees

Unauthorized contracts

169. Should the board of any district wilfully contract liabilities in the name of the district greater or other than as provided or allowed by this Ordinance or appropriate any of the moneys of the district for purposes other than are provided or allowed by this Ordinance the treasurer of the district or some other person authorized by the Minister may recover as a debt in a court of competent jurisdiction from such board jointly or severally the sum or sums for which the district has been rendered liable through the action of such trustees over and above the amount so provided by this Ordinance in addition to the total amount of any moneys that have been misappropriated by such trustees. C.O., c. 75, s. 96.

False report of register

170. If any trustee knowingly signs a false report or if any teacher keeps a false school register or knowingly makes a false return he shall be guilty of an offence and liable on summary conviction to a fine not exceeding $20.

Wrongful detention of property of district

Penalty

171. Any trustee, officer or employee of a district who after ceasing to hold office detains any money, book, paper or thing belonging to the district shall thereby incur a penalty not exceeding $20 for each day during which he wrongfully retains possession of such money, book, paper or thing after having received notice in writing from the chairman of the board or from the Minister requiring him to deposit the same in the hands of some person mentioned in such notice. C.O., c. 75, s. 94.

(2) Any trustee, officer or employee of a district who refuses, neglects or fails to perform any duty imposed on him by this Ordinance shall be liable to a penalty not exceeding $50. 1903 (2), c. 27, s. 12.

Misconduct of returning officer

172. Any returning officer of any district or proposed district acting under the provisions of this Ordinance who shall knowingly and wilfully prejudice the result of any voting by preventing votes from being taken or by taking unlawful votes or by altering returns or books in any way or by any other means shall be liable to a penalty of not less than $10 and not exceeding $100. C.O., c. 75, s. 95.

Penalty for disturbing school or meetings

173. Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorized to be held by this Ordinance or any one who wilfully interrupts or disquiets any school established and conducted under its authority by rude or indecent behaviour or by making a noise either within the place which such school is kept or held or so near thereto as to disturb the order of exercises of the school shall be guilty of an offence for which he shall forfeit for the use of the district within which offence was committed a sum not exceeding $20.

Penalty for false statement

173*a*. Any person who subscribes to any statement, declaration, return or other document prescribed herein or by the Minister under the provisions hereof and therein wilfully and knowingly makes any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $25. 1910 (2), c. 6, s. 46.

Trustee cannot be teacher

174. No school trustee shall be eligible to appointment as teacher within the district of which he is a trustee; nor shall the teacher of any school hold the office of school trustee.

Recovery of fines

175. All fines, penalties and forfeitures mentioned in this Ordinance may be recovered and enforced with costs on summary conviction before a justice of the peace. C.O., c. 75, s. 97.

Application of penalties

176. All moneys accruing from fines or penalties under this Ordinance shall unless otherwise provided belong to the general revenue fund of the Province of Alberta. C.O., c. 75, s. 98; 1910 (2), c. 6, s. 1.

ORDERS.

176*a*. No order purporting to be made under the said Ordinance and being within the powers conferred by the said Ordinance shall be deemed invalid on account of any noncompliance with any of the matters required by the said Ordinance as preliminary to such order; and no misnomer inaccurate description or omission in any such order shall in anywise suspend or impair the operation of the Ordinance with respect to the matter misdescribed or omitted. 1903 (2), c. 27, s. 15. Order not to be invalidated for irregularity

176*b*. Any misdescription or other error in any order made by the commissioner or Minister or in any order made or proclamation issued by the Lieutenant Governor in Council under the provisions of the said Ordinance or under the provisions of any other Ordinance respecting schools at any time in force in the Territories or Province of Alberta may be corrected and confirmed with such correction as of the date on which it was made or issued by the commissioner or Minister by any subsequent order. 1910 (2), c. 6, s. 47. Correction of error in order, etc.

MISCELLANEOUS.

177. The Lieutenant Governor in Council may by order notice of which shall be published in the official gazette declare that for the purposes of this Ordinance any town district shall be deemed to be a village district and thereafter all the provisions of this Ordinance relating to village districts shall apply thereto. Town district may be declared village district

178. All school districts heretofore erected or purporting so to be are hereby confirmed as districts legally established under this Ordinance with any alterations of boundaries made or purporting to have been made and all debentures issued by the trustees or commissioners of any such school districts are hereby confirmed and declared to be legal and valid charges upon the property of the districts issuing the same notwithstanding any defect or irregularity in any proceeding in respect of or preliminary to the erection of such districts or alterations of the boundaries thereof or the issuing of such debentures. Confirmation of existing districts, etc.

179. *The School Ordinance* being chapter 75 of The Consolidated Ordinances 1898 and chapter 26 of the Ordinances of 1900 amending the same are hereby repealed: Repeal

Provided however that sections 116 to 196 and 212 to 214 all inclusive shall continue in force until the first day of January, 1902.

180. This Ordinance shall come into force on the first day of September, 1901.

SCHEDULE.

FORM A.

Proposed.....School District of the Province of Alberta.
(*Proposed name of district*)

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named proposed school district and that he has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to this date.

Names	Property owned or occupied.

Witnesses to the above signatures:

.....
Chairman.

.....
Secretary.

Dated the.....day of.....19.....

FORM B.

(*a*)

(*This form should be used for resident ratepayers in any established district not having a revised assessment roll*).

The.....S.D. No.....of the Province of Alberta.

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named district and that he has owned or been the occupant of assessable property therein for a period of at least two months prior to this date.

Names	Property owned or occupied.

Witnesses to the above signatures:

.....
Chairman.

.....
Secretary.

Dated the.....day of.....19.....

(*b*)

(*This form should be used for resident ratepayers in any district that has a revised assessment roll.*

The.....S.D. No.....of the Province of Alberta.
1913 (1), c. 19, s. 19.

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named district and that his name appears on the last revised assessment roll of the district.

Names.	Property owned or occupied.

Witnesses to the above signatures:

.....
Chairman.

.....
Secretary.

Dated the.....day of.....19.....

(*c*)

(*This form should be used for ratepayers of any established district*).

The.....S.D. No.....of the Province of Alberta.

The undersigned severally declare each for himself that he is of the full age of twenty-one years.

Name.	Property owned or occupied.

Witnesses to the above signatures:

.....
Chairman.

.....
Secretary.

Dated the.....day of.....19.....

Amended 1903 (2), c. 27, s. 13; 1913, c. 19, s. 19.

FORM C.

POLL BOOK.

Election of Trustees for the.....S.D. No.....
of the Province of Alberta.
Date of Poll.....; Poll opened.....; Poll closed.....

Name of Voter.	Person voted for.	Remarks

.....
Chairman.

FORM F.

POLL BOOK.

Vote on debenture by-law submitted to the ratepayers of.....
S.D. on the.....day of.....19.....
Poll opened at ten o'clock a.m. Poll closed at four o'clock p.m.

Name of Voter.	Record of Votes.		Remarks
	For by-law.	Against by-law.	
Totals			

.....
Returning Officer.

FORM G.

I, the undersigned justice of the peace in and for the Province of Alberta having received the poll book used to record the votes taken at the meeting held in the (*give name of school district in full*) on the.....
day of.....19....., on the question of the issue of debentures on the security of the said district and having heard all complaints relative to the conduct of the voting beg leave to submit the following return of the votes:

Total number of votes taken		Number of votes on each side after the recount.	
For	Against	For	Against

.....
J.P.
Dated at.....this.....day of.....19....

TITLE X.

RELATING TO AGRICULTURE, STOCK, GAME, ETC.

CHAPTER 76.

An Ordinance respecting Brands.

(C.O., c. 76.)

Repealed, 1914, c. 24, s. 20.

CHAPTER 77.

An Ordinance respecting Fences.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Fence Ordinance.*" 1903 (2nd Session), c. 28, s. 1.

PROVISIONS REGARDING FENCES.

Absence of lawful fence

2. No action for damages caused by domestic animals shall be maintained nor shall domestic animals be liable to be distrained for causing damage to property unless the same is surrounded by a lawful fence. 1903 (2nd Session), c. 28, s. 2.

Lawful fence defined

3. Any of the fences in this section described shall be deemed a lawful fence:

1. Any substantial fence not less than four feet high if it consists—

(*a*) Of rails or boards not less than four in number, the lower one not more than eighteen inches from the ground and each panel not exceeding twelve feet in length;

(*b*) Of upright posts, boards or palings not more than six inches apart;

(*c*) Of barbed wire and a substantial top rail, the wires to be not less than two in number and the lower one not more than twenty inches from the ground, posts to be not more than sixteen and a half feet apart;

(*d*) Of three or more barbed wires, the lower one not more than twenty inches from the ground, posts to be not more than sixteen and a half feet apart;

(*e*) Of not less than three barbed wires on posts not more than fifty feet apart, the wires being fastened to droppers not less than two inches in width and one inch in thickness or willow or other poles not less than one inch in diameter at the small end or wire dropper, the said droppers or poles being placed at regular intervals of not more than seven feet apart;

(*f*) Of two posts spiked together at the top and resting on the ground in the shape of an A which shall be joined by a brace firmly nailed near the base, with three rails firmly secured on the one side of the A, the top rail not less than four feet and the bottom rail not less than eighteen inches from the ground, there being also firmly secured on the other side of the A one rail not more than twenty inches from the ground;

(*g*) Of woven wire secured to posts not more than 35 feet apart;

2. Any river bank or other natural boundary sufficient to keep domestic animals out of any land. 1903 (2nd Session), c. 28, s. 3.

(3) Any fence within a rural municipality declared to be a lawful fence by a by-law or by-laws for restraining animals at large, passed by such municipality, but this subsection shall not apply to any fence immediately surrounding stacks of hay or grain. 1914, c. 2, s. 4.

Fences around crops

4. No fence surrounding growing crops or crops in process of being harvested shall be deemed a lawful fence unless it is situated at least eight feet from such crop and otherwise complies with the provisions of this Ordinance. 1903 (2nd Session), c. 28, s. 4.

Fences surrounding stacks

5. Any fence surrounding stacks of hay or grain shall be deemed a lawful fence if constructed according to the provisions of section 3 of this Ordinance and situated not less than twenty feet from such stacks. 1903 (2nd Session), c. 28, s. 5; 1914, c. 2, s. 4.

Liability of adjoining owners for line fences

6. Whenever two owners or occupiers of adjoining parcels of lands desire to erect a line or boundary fence between such adjoining parcels for the common advantage of both they shall bear the expense of the erection in equal shares and thereafter the expense of maintaining and repairing such fence shall be borne by the adjoining owners or occupiers in equal shares.

(2) Whenever the owner or occupier of any parcel of land erects a line or boundary fence between such land and an adjoining parcel of land the owner or occupier of such adjoining parcel of land as soon as he receives any benefit or advantage from such line or boundary fence by the enclosure of his land or any portion thereof or otherwise howsoever shall pay to the first mentioned owner or occupier a just proportion of the then value of such line or boundary fence and thereafter the expense of maintaining and repairing such fence shall be borne by the adjoining owners or occupiers in equal shares. 1903 (2nd Session), c. 28, s. 6.

Trespassing of animals

Liability of owner

7. The owner of any domestic animal which breaks into or enters upon any land enclosed by a lawful fence shall be liable to compensate the owner of such land for any damage done by such animal. 1903 (2nd Session), c. 28, s. 7.

Disagreement as to fencing or damages

Arbitration

8. In case adjoining owners or occupiers of land disagree as to what is a lawful fence or as to the proper location of a proposed or existing line or boundary fence or as to the just proportion of a line fence which each such owner or occupier should make or put in repair or as to the amount which any such owner or occupier should make compensation to the other for making or keeping in repair any fence or in case parties interested disagree as to the amount of damages done by animals breaking into or entering upon any land enclosed by a lawful fence they shall each appoint an arbitrator to determine and settle the matter in difference and such arbitrators shall first giving the parties in difference reasonable notice of the time and place where they

intend to meet for the purpose of hearing and determining the matter in difference attend at such time and place and hear such parties and their witnesses and make their award in respect to the matters so in difference; and in case such arbitrators are unable to agree they shall appoint an umpire who shall make an award in respect to the said matters; and in case either of the parties in difference refuses or omits to appoint an arbitrator within forty-eight hours after a demand is made in writing upon him to do so by the other party in difference such other party in difference may apply to a justice of the peace who being satisfied by the oath of a credible witness that such demand has been made and not complied with may appoint an arbitrator in the stead of the person so refusing or omitting to appoint and the arbitrator so appointed shall proceed and act and all steps shall be had and taken as in this section provided as if such arbitrator had been appointed by the person so refusing or omitting to appoint. No. 38 of 1897.

(2) The direction herein contained for the appointment of arbitrators shall be deemed a submission under *The Arbitration Ordinance* and the provisions of the last mentioned Ordinance shall apply thereto.

(3) The decision of the arbitrators as to the proper location of a proposed or existing line or boundary fence shall not affect the title to the land on either side thereof and shall be binding only during the actual existence as a lawful fence of the fence in question. 1903 (2nd Session), c. 28, s. 8.

Exceptions as to herd and pound district

9. Nothing in the preceding section shall be held to affect in any way the right of any person to seize or impound cattle in any herd or pound district under the provisions of any Ordinance authorizing the seizing or impounding of cattle in any such district or to affect the demand or recovering of damages in the mode prescribed by that Ordinance. 1903 (2nd Session), c. 28, s. 9.

Fences across closed trails

10. It shall be the duty of any person erecting any wire fence across any trail that has been in common use by the public for a period of three months immediately previous to such erection to place a top rail on such fence where it crosses the trail and for a distance of two rods on each side from the centre of the trail. 1903 (2nd Session), c. 28, s. 10.

CHAPTER 78.

An Ordinance respecting Stallions and Bulls.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Entire Animals Ordinance.*" C.O., c. 78, s. 1. Short title

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires—

1. The expression "department" means the Department of Agriculture; Department

2. The expression "Minister" means the member of the Executive Council of the Territories to whom may be assigned from time to time the duty of administering the Department of Agriculture; Minister

3. The expression "justice" means any justice of the peace; Justice

4. The expression "owner" means any person owning any stallion or bull dealt with under this Ordinance; Owner

5. The expression "captor" means any person seizing or confining any stallion or bull under this Ordinance; Captor

6. The expression "run at large" or "running at large" means without being under control of the owner either by being in direct and continuous charge of a herder or by confinement within any building or other enclosure or fence whether the same be lawful or not. C.O., c. 78, s. 2. Running at large

3. No stallion of one year old or upwards shall be permitted to run at large in any part of the Territories at any time. C.O., c. 78, s. 3. When stallions shall not run at large

4. Except as hereinafter provided no bull nine months old or upwards shall be permitted to run at large in any part of the Territories at any time. When bulls shall not run at large

(2) The Minister may by notice published in two consecutive issues of the official gazette declare that bulls may be permitted to run at large in any district described in such notice between the first day of July and the thirty-first day of December in any year both days inclusive. C.O., c. 78, s. 4; 1900, c. 28, s. 1. Bulls may run at large in certain cases

5. Except within the limits of any pound district or herd district constituted under the provisions of any Ordinance of the Territories any person who finds a stallion or bull running at large contrary to the provisions of this Ordinance may capture and confine such bull or stallion and promptly thereafter shall notify the owner thereof if known to such captor; and if such owner do not within three days after receiving such notice take away such stallion or bull and pay the captor thereof $5 for Stallions or bulls unlawfully running at large may be captured

his trouble and 25 cents per diem for the keep of the said stallion or bull for every day it has been in his custody such owner shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $20 together with the cost of prosecution and the fees for capturing and the keep of such stallion or bull as aforesaid which said fees shall be paid over on collection to the captor. C.O., c. 78, s. 5.

When owner is unknown

6. When the owner of any stallion or bull captured and confined under the provisions of the last preceding section is unknown to the captor, the said captor shall within forty-eight hours after such capture post up a notice of detention in form A in the schedule hereto in three public places in the neighbourhood of the place of capture and at the same time forward a copy of the notice to the department for publication in two consecutive issues of the official gazette, and the owner of such stallion or bull shall be entitled to receive delivery thereof upon paying the captor $5 for his trouble and 25 cents per diem for the keep of such animal together with the amount of the expenses actually incurred for advertising.

Advertising capture

(2) In addition to advertising the capture of a stallion or bull in the official gazette as herein provided the captor may also cause a copy of the notice of detention to be inserted in three successive weekly issues of the newspaper published nearest to the neighbourhood in which the capture was made, and any expenditure not exceeding the sum of $1 made for such advertising shall be reimbursed to the captor by the owner if the said stallion or bull is released by such owner or, if not so released, by the justice after the sale of such stallion or bull upon proof of such expenditure having been made. C.O., c. 78, s. 6.

When animal may be sold

7. If at the end of twenty days from the first publication of the notice in the said gazette no owner be found for such stallion or bull or the payments herein provided have not been made to the captor, then upon application to a justice in form B in the schedule hereto verified under oath before the said justice, the said justice may after eight days' notice posted up in three conspicuous places in the neighbourhood of the place of capture (one of which shall be the post office nearest thereto) stating the time and place of sale, sell or cause the said stallion or bull to be sold by public auction, and out of the proceeds of such sale shall first pay the expenses of sale and advertising and justice's fees and then the sum of $5 and costs of keeping to the captor and the balance to the Minister.

Disposition of proceeds

(2) The justice of the peace shall immediately after the sale send to the department a description of the animal or animals sold, the date of sale, the amount realized and the disposition thereof. C.O., c. 78, s. 7.

Proceeds remitted to treasurer may be paid to owner

8. Any money paid to the Minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence of ownership (satisfactory to the Minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C.O., c. 78, s. 8.

Who may sell animal

9. The justice to whom application is made for authority to sell any stallion or bull which may be sold under the provisions of this Ordinance may either sell the animal himself or order it to be sold by the nearest accessible poundkeeper to the place where the animal was found or in the absence of any such poundkeeper living within reasonable distance thereto may authorize any person in writing to sell such animal; and no liability shall be incurred by any person making such sale by reason of his not being in possession of a license to act as auctioneer under the provisions of any Ordinance of the Territories. C.O., c. 78, s. 9.

Salesman's fees

10. The justice or person authorized thereto selling any stallion or bull under the provisions of this Ordinance shall be entitled to retain to his own use and benefit $2.50 per centum commission upon the proceeds of such sale. C.O., c. 78, s. 10.

Stallions or bulls at large in pound or herd districts

11. In any pound district or herd district established under the provisions of any Ordinance of the Territories no stallion or bull shall be detained or sold in the manner provided in this Ordinance but (if captured) shall be taken by the captor to the nearest accessible pound there to be dealt with as it is provided estrays may be dealt with. C.O., c. 78, s. 11.

Penalty for owner allowing stallion or bull to run at large

12. The owner of any stallion or bull who after receiving a notice signed by a justice of the peace that such stallion or bull is running at large contrary to the provisions of this Ordinance and requiring such owner to capture and confine the same neglects or refuses within forty-eight hours to comply with such notice shall be guilty of an offence and liable on summary conviction thereof before a justice of the peace to a penalty of $5 for every day after the expiration of the time mentioned in said notice the stallion or bull is at large. C.O., c. 78, s. 12.

Fees allowed to justice

13. Without in any way prejudicing the right which a justice may have to fees established by law in respect of any proceedings in summary convictions under this Ordinance or under section 9 of this Ordinance a justice shall be entitled to the following fees for services performed by him under section 7 hereof:

Preparing the application therein mentioned and administering oath, fifty cents.

Preparing and posting the notices therein mentioned, $1. C.O., c. 78, s. 13.

SCHEDULE.

FORM A.

The undersigned gives notice that he has captured a (stallion *or* bull *as the case may be with a full description of same*) while running at large contrary to the provisions of *The Entire Animals Ordinance*. The said (stallion *or* bull) is detained on the (*description of quarter section or other place where the animal is confined*) and if not claimed in due course will be dealt with according to law. The capture was made at.....o'clock on day the.....day of..... 1....., and this notice was posted within.....hours thereafter.

.....
(*Signature and post office address of captor.*)

FORM B.

To *A.B.*, Esquire, a justice of the peace in and for the North-West Territories.

The applicant avers that on the.....day of..... 1..... (*naming the date of capture*) he found a (bull *or* stallion *as the case may be*) running at large contrary to the provisions of *The Entire Animals Ordinance* and captured and confined the same;

That he posted up a notice in three public places in the neighbourhood of the capture and advertised such notice in three successive weekly issues of (*naming the newspaper if any*) and forwarded a copy of the notice to the Department of Agriculture at Regina (*now Edmonton*) for publication in the *North-West Territories Gazette;*

That the notice was published in the issue of the said gazette dated (*date of first issue containing notice*);

That twenty days have elapsed without the said (stallion *or* bull) having been released by the payment to the applicant of the moneys he is entitled to be paid under the provisions of the said Ordinance;

That the applicant prays that the said (bull *or* stallion) may be sold.

.....
(*Signature of captor.*)

I (*name of captor*) the applicant above named make oath and say that the facts set forth in the above application are true in substance and fact.

.....
(*Signature of captor.*)

Sworn before me.....
at.....
this.....day of
.....1.....

A.B., J.P.

CHAPTER 79.

An Ordinance respecting Pound Districts.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Pound District Ordinance.*" Short title

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires—

1. The expression "department" means the Department of Agriculture; Department.

2. The expression "Minister" means the member of the Executive Council to whom is assigned from time to time the duty of administering the Department of Agriculture; Minister

3. The expression "animal" means any horse, mule, jack, sheep, goat, neat cattle, swine or goose; Animal

4. The expression "trespasser" means any animal which breaks into any ground enclosed by a lawful fence; Trespasser

5. The expression "estray" means any animal running at large within the limits of any pound district at any time while the Ordinance is in force in such district; 1913 (1st Session), c. 9, s. 2 (1). Estray

6. The expression "poundkeeper" means the person for the time being in the authorized charge of any pound; Poundkeeper

7. The expression "lawful fence" means any fence declared to be lawful by any Ordinance; Lawful fence

8. The expression "justice" means any justice of the peace; Justice

9. The expression "proprietor" means any holder or occupier of land under whatever tenure; 1913 (1st Session), c. 9, s. 2 (1). Proprietor

10. The expression "owner" means any person owning any animal or any agent or overseer of any such owner; Owner

11. The expression "captor" means any person seizing or distraining any estray; Captor

12. The expression "distrainor" means any person seizing or distraining any trespasser; Distrainer

13. The expression "run at large" or "running at large" means without being under control of the owner, either by being securely tethered or in direct and continuous charge of a herder or by confinement within any building or other enclosure or a fence whether the same be lawful or not; Running at large

14. The expression "pound district" means any district in the Territories constituted under the provisions of this Ordinance Pound district

ORGANIZATION OF POUND DISTRICTS.

3. The Lieutenant Governor in Council may by order in council constitute any territory containing not less than the area of a township, no part of which is included within the limits of a rural municipality or a village, into a pound district, declare What districts may be organized and how

what animals shall be estrays and fix the time in each year during which the Ordinance shall be in force in such district. 1913 (1st Session), c. 9, s. 2 (2).

Application for formation

4. Application for the formation of a pound district shall be made to the Minister in form C in the schedule hereto and shall set out the territory it is desired to have included in the proposed district, the months during which the Ordinance is to be operative in such district and the animals to be designated as estrays. 1913 (1st Session), c. 9, s. 2 (3).

Notice to be given

(2) At least thirty days prior to the date of the order in council constituting a pound district, a notice of the application, setting out the particulars contained in such application, shall be published in *The Alberta Gazette* and also posted in at least one post office within such proposed district, or if there be no post office within such proposed district then in the post office nearest to such proposed district. 1913 (1st Session), c. 9, s. 2 (3).

How

(3) Such notice shall be addressed to the postmaster at such post office enclosed in a registered cover and all the requirements of this Ordinance respecting the posting of notices shall be held to be completed at the expiration of twenty-four hours after the first mail carrying such notice is scheduled to reach the post office to which the notice is directed. 1913 (1st Session), c. 9, s. 2 (3).

Objections how to be made

(4) If at any time within thirty days after such notice is posted objection is made by a majority of the proprietors of land within such proposed district in form A in the schedule hereto (the facts stated in such objection and the signatures thereto being verified by statutory declaration) the proposed district shall not be constituted; but if no such objection is made within thirty days from the posting of the notice the proposed district may be constituted as hereinbefore provided. 1913 (1st Session), c. 9, s. 2 (3).

5. The Lieutenant Governor in Council may by order made public by notice in the official gazette vary or alter the boundaries of or add to or take from any pound district existing hereunder or abolish or discontinue the same.

6. Until it has been otherwise declared or enacted by the council of any municipality or by the voters of any village the pound districts heretofore created under Ordinance No. 21 of 1897 which comprise any portion of such municipality or village shall be continued hereunder and the poundkeepers appointed therefor shall continue to act under and subject to the provisions of this Ordinance.

OPERATION OF ORDINANCE.

Estrays not to run at large

7. No animal declared under the provisions of this Ordinance to be an estray in any pound district shall be permitted to run at large therein and any such animal when not under control of its owner shall be liable to be impounded.

When bulls are to be estrays

(2) Upon being satisfied as to the desire of a majority of the proprietors of land in any pound district constituted under the provisions of this Ordinance the Minister may by notice published in the official gazette and in any other manner that may seem

to him necessary declare that any bull otherwise prohibited from running at large shall be counted an estray or not an estray at any season of the year.

Pound districts in towns and villages

(3) On the application of the council of any municipality or the overseer of any village on behalf of the residents of such village within the limits of which municipality or village a pound district has been constituted, the Minister may declare any animal to be an estray or not an estray at any season of the year within the limits of such pound district.

Estrays may be impounded

8. The proprietor of any land in any pound district may capture any estray found within such pound district and drive such estray to and deliver the same at the nearest accessible pound in the said pound district whether the owner of such estray be known to the captor or not. 1913 (1st Session), c. 9, s. 2 (4).

Stallions and bulls in pound districts

9. No procedure under *The Entire Animals Ordinance* shall be taken with respect to stallions or bulls running at large in any pound district but (if captured) all such stallions or bulls shall be forthwith driven to the nearest accessible pound in such pound district there to be dealt with as trespassers may be dealt with under this Ordinance.

Trespassers may be impounded

10. The proprietor of any land surrounded by a lawful fence in a pound district, upon which land any animal is found trespassing may seize and distrain the same and drive the same to the nearest accessible pound in such pound district and deliver such trespasser to the poundkeeper to be impounded and shall at the same time deliver a written statement describing the animal impounded, the name of the owner (if known), the place where such animal was trespassing, the amount of damages claimed; and the said poundkeeper shall impound such trespasser under the provisions of this Ordinance and be responsible for the feed and safe keeping thereof so long as he is legally bound to hold the same; and such poundkeeper is empowered to collect the amount of the damages caused by and all charges for the keep and other incidental expenses connected with such trespasser before delivering up the same to the owner thereof. 1910 (2nd Session), c. 2, s. 7.

11. Any person acting as inspector, constable or overseer in any municipality or village or the appointee of any such person may take any action or proceedings authorized by this Ordinance on behalf of any proprietor as if by him directed so to do.

Animal to be placed in authorized pound

12. Any proprietor who shall impound any animal in any pound or place not authorized by this Ordinance shall be guilty of an offence and upon summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $20.

Temporary impounding

(2) Any such proprietor upon whose property any animal is found trespassing may (if he knows its owner) temporarily impound the same in any convenient place for a period not exceeding three days and shall within twenty-four hours after such impounding deliver to such owner a written memorandum in like manner as it is hereinbefore enacted shall be delivered to a poundkeeper with any trespasser impounded in his pound; and shall feed and maintain such animal while so impounded; and may at the expiration of such time (if not sooner duly released)

deliver it to the keeper of the nearest accessible pound; and such proprietor may make a charge for feeding and maintaining such animal and for sending notice not exceeding such as might by law be made by a poundkeeper but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding.

When trespass is committed in certain cases

13. In every case where damage is done to the enclosed lands of any person in any pound district as the result of any animal breaking through or over the fence or fences enclosing the same such animal may be considered and treated as a trespasser within the meaning of this Ordinance if that part of the fence broken through or over by such animal is a lawful fence although other parts of the enclosing fence may not be lawful; and any animal breaking through or over a division fence in any pound district which its owner or person having charge of such animal is bound to repair and keep up shall be considered and treated as a trespasser within the meaning of this Ordinance although the said fence may not be a lawful fence.

Lawful fences in certain cases

14. In every case in which more proprietors than one hold lands enclosed by a common outward lawful fence such lands shall for the purposes of this Ordinance be deemed as against all persons outside such general fence to be lawfully fenced but as against each other where no lawful fence stands between them to be unenclosed lands.

POUND DISTRICTS.

Responsibility of persons in charge of animals doing damage

15. The person in charge of any animal within a pound district shall be liable for any damage caused by such animal under his charge as though such animal were his own property; and the owner of any animal allowed to run at large in any pound district contrary to the provisions of this Ordinance shall be liable for any damage done by such animal although the land whereon such damage was done was not enclosed by a lawful fence.

APPOINTMENT OF POUNDKEEPERS.

All poundkeepers to be appointed by Minister

16. In any pound district the Minister may appoint one or more poundkeepers therefor and notice of every such appointment shall be published in the official gazette describing the name and post office address of such poundkeeper and the location of the pound:

Proviso

Provided that all pounds established or poundkeepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and poundkeepers appointed under the provisions of this Ordinance and subject to the provisions thereof.

All appointments terminate on December 31 annually

17. Every appointment of a poundkeeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all poundkeepers so appointed may at the expiry of each period of twelve months be eligible for reappointment.

Resignation of poundkeeper

(2) Any poundkeeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such poundkeeper is appointed.

18. Every notice of the appointment or removal of any poundkeeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such poundkeeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. Publication of notices

DUTIES OF POUNDKEEPERS.

19. Every poundkeeper shall keep a pound book in a form to be prescribed by the Minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the poundkeeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West mounted police force or any constable free of charge and of any other person upon payment of the sum of ten cents; and every such poundkeeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred. Book to be kept by poundkeeper

(2) Every poundkeeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. and handed over to successor

20. Every poundkeeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the poundkeeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every poundkeeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any act of himself or agent. Pounds to be kept clean

21. Every poundkeeper shall make such return to the Minister relating to the impounding of animals in his pound as may from time to time be required by the Minister. Returns to be made

PAYMENT OF CHARGES ON IMPOUNDED ANIMALS.

22. All charges payable in respect of any impounded animal shall be payable in the first instance to the poundkeeper, who shall hold the same subject to the provisions of this Ordinance for the person entitled thereto. Charges to be payable to poundkeeper

23. No charges or claim for damage done shall be payable to or recoverable by any person in respect of the trespass of or damage done by any animal, who shall impound or detain such animal for upwards of three days in any place not being a pound within the meaning of this Ordinance. Penalty for improper impounding

24. Whenever any animal has been captured or distrained by any person under any of the provisions of this Ordinance for the purpose of impounding the same, if the owner of the animal or Animals may be released before impounding

some person on his behalf pay or tender to the person seizing or having charge of such animal before the same has been actually impounded the charges for which such animal has then become liable under this Ordinance, the person having charge of such animal shall forthwith deliver up the same to the owner or the person tendering the said charges on his behalf.

Poundkeeper to detain all animals impounded

25. Every poundkeeper shall receive and detain in his custody any animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges shall be paid or until he shall receive notice of the decision of the justice as hereinafter provided.

NOTICE OF IMPOUNDING.

Notices to be given by poundkeeper

26. If the owner of any impounded animal is known to the poundkeeper, the poundkeeper shall forthwith deliver at or post to the address of such owner a notice in form B in the schedule hereto.

(2) In case such owner is not known or such owner or person notified shall not within three days after the posting or delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages, the poundkeeper shall forward to the department for insertion in two consecutive issues of the official gazette a notice in form B in the schedule hereto.

Copies of all notices to be posted at pound

27. Every poundkeeper shall without charge therefor in addition to any copies of any notice which he may be required under this Ordinance to post or deliver post a copy of every such notice in a conspicuous place at his pound and the nearest post office and shall keep and maintain such notice at his pound during the whole of such time such notice may refer to. No. 29 of 1900, s. 1.

SALE OF IMPOUNDED ANIMALS.

When impounded animals may be sold

28. When any animal shall not have been released from the pound within twenty days after the notice has been inserted in the official gazette as in section 26 hereof mentioned the said animal shall be sold by public auction after notice of such sale shall have been posted for eight days in three conspicuous places within the pound district (one of which shall be the post office nearest the pound); and at such sale the poundkeeper shall be the auctioneer and such sale shall be held at the pound and shall commence at the hour of two o'clock in the afternoon and the poundkeeper shall neither in person nor by his agent purchase any animal at such sale or have any interest of any kind in any animal so purchased.

Poundkeeper not to have interest in sale

When animals may not be sold

29. If more than one animal is impounded on any distress and the owner thereof is known the poundkeeper shall not sell any more of such animals after he has realized from the sales sufficient to satisfy the claims for damages, expenses and fees chargeable against the animals, and the owner of the animals shall be entitled to those remaining unsold.

(2) If the owner of the animals is unknown the poundkeeper shall sell all the animals impounded.

(3) The poundkeeper shall immediately after such sale send to the department a description of the animal or animals sold, the date of sale, the amount realized and the disposition thereof, and such particulars shall be inserted in two successive issues of the supplement to *The Alberta Gazette*. 1913 (1st Session, c. 9, s. 2 (5).

(4) The poundkeeper shall immediately after such sale brand the animal or animals sold with a brand to be designated by the Minister on such part of the animal or animals as the Minister shall direct. 1913 (1st Session), c. 9, s. 2 (5).

(5) The purchaser of any animal or animals sold at a pound sale shall retain possession of same for a period of 45 days from the day of the sale and shall not during such period sell or dispose of such animal or animals except to the owner as hereinafter provided. 1913 (1st Session), c. 9, s. 2 (5).

(6) The owner of any animal or animals sold at a pound sale may redeem same within a period of 45 days from the day of such sale upon paying to the purchaser in respect of each animal so redeemed the following sums:

(*a*) The price paid by the purchaser for such animal;

(*b*) An amount equal to 5 per cent. of such price; and

(*c*) Twenty-five cents for each day that such animal has been in the possession of the purchaser, on account of the expense of feeding such animal; and the purchaser shall, upon payment to him of such sums, deliver to the owner any animal or animals so redeemed.

(7) A poundkeeper shall, upon any animal being redeemed by the owner, vent the brand placed upon such animal by him in a manner designated by the Minister. 1913 (1st Session), c. 9, s. 2 (5).

Poundkeeper need not be licensed as auctioneer

30. No poundkeeper making a sale under the provisions of any Ordinance shall be liable to a penalty for selling without a license as an auctioneer.

PROCEEDS OF SALE, HOW DISPOSED OF.

Disposal of proceeds of sale

31. The proceeds of the sale of any impounded animal sold under the provisions of this Ordinance shall be applicable in payment—

(*a*) Of any costs and charges attending such sale;

(*b*) Of all sustenance fees;

(*c*) To the impounder of such animal of the amount due to him for mileage charges and for the damage done;

and the residue if any shall be paid to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the Minister.

Owner's claim to net proceeds

32. Any money paid to the Minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence (satisfactory to the Minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund.

COMPLAINTS OF OWNER.

What action may be taken by owner

33. The owner of any impounded animal may give notice in writing to the poundkeeper that he intends to complain to a justice against the person impounding such animal; and upon receipt of such notice and on deposit with the poundkeeper of the amount claimed for damages together with the pound and other authorized fees and charges the poundkeeper shall release such animal and shall retain such amount subject to the order of the justice as hereinafter provided.

How complaint shall be formulated

(2) Such complaint may be upon one of the following grounds:

(*a*) That the impounding was illegal; or

(*b*) That the damages claimed are excessive; or

(*c*) That the impounding was illegal but that in any event the damages are excessive;

but the justice shall not inquire into any complaint notice of which has not been given.

Hearing of complaint

34. Within ten days after giving the notice in the last preceding section mentioned the owner may lodge his complaint as set forth in the notice with a justice of the peace who thereupon shall institute the like proceedings as are authorized under Part LVIII of *The Criminal Code* of 1892 for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint; and if the justice—

1. Adjudge that the animal impounded was illegally impounded as claimed the justice shall order the said animal (if not released) to be restored to the owner or (if released) the money deposited with the poundkeeper to be repaid and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the poundkeeper is lawfully entitled to; or

2. Finds on a complaint laid as in clause (*b*) of subsection (2) of the last preceding section the amount of damages the impounder has sustained to be less than claimed then the justice shall order the excess and the owner's costs of the proceedings to be paid to the owner by the poundkeeper out of the money paid in by the owner; and if no money has been paid in by the owner the justice shall order the payment forthwith of the amount of the damages so fixed less the costs of the proceedings and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

3. Adjudges that the animal impounded was legally impounded or that the amount of the damage sustained was not less than the amount claimed by the impounder then the justice shall make an order for the payment forthwith of the amount claimed and all pound and other authorized fees together with the costs of the proceedings; and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

4. Finds on a complaint laid as in clause (*c*) of subsection (2) of the last preceding section that the animal was legally impounded but the damages sustained by the impounder were less than claimed the justice shall make an order as directed by paragraph 2 of this section but shall not allow costs to either party and proceedings shall be taken on any such order as provided in such paragraph.

35. Nothing in this Ordinance contained shall deprive the owner of any animal impounded of any action, remedy or right that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded: Owner's remedies at common law

Provided always that if any action be brought against a poundkeeper for anything done by him under this Ordinance he may plead not guilty to such action; and if on the trial of such action it is made to appear that the said poundkeeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such poundkeeper judgment shall then be given for him with costs. Proviso

36. Nothing herein contained shall prevent the owner of any lands trespassed upon or of any property destroyed from waiving the rights created by this Ordinance and bringing his action in any competent court in consequence of any trespass. Damages may be claimed by action in competent court

OFFENCES AND PENALTIES THEREFOR.

37. If any poundkeeper— Penalties poundkeepers are liable to for—

1. Impounds or assists or incites or employs any person to impound any animal in any district unless such animal was an estray or was trespassing upon the poundkeeper's own land in the district surrounded by a lawful fence; Impounding

2. Purchases in person or by his agent or has any interest of any kind in any animal sold by auction at a pound of which he is at the time of such sale the poundkeeper; Purchasing impounded animals

3. Demands or receives any sum for pound notices, sustenance and other fees and charges not authorized by this Ordinance; Making unauthorized charges

4. Fails to pay over any money held by him under the provisions of this Ordinance for any person after payment of the same has been demanded by or on behalf of such person; Not paying over moneys

5. Neglects to provide food and water for any animal or works or uses the same in any manner while so impounded: Neglecting to care for impounded animals

Provided that no poundkeeper shall be liable for any penalty for milking or allowing to be milked any cow while such cow is impounded; Milking cows

6. Omits or neglects to keep books and to make entries therein as required by this Ordinance or makes any incorrect or untrue entry in such books; Not keeping books

6*a*. Gives an incorrect description of any animal or animals whether through negligence, or carelessness; 1913 (1st Session), c. 9, s. 2 (6). Gives incorrect description

7. Allows any animal infected with any contagious or infectious disease to be in the same enclosure with any impounded animal not so affected; Impounding healthy with diseased animals

8. Fails to give any notice required by this Ordinance; Not giving proper notice

9. Neglects to do anything required by this Ordinance to be done whereby damage is incurred by any person; Causing damage by neglect

he shall in addition to any civil liability which he may incur by reason thereof be guilty of an offence and liable on summary conviction to a penalty not exceeding $100.

38. When any poundkeeper is charged with neglecting to provide sustenance for any animal impounded the burden of proving that proper sustenance was provided for such animal Burden of proof that animals are cared for, on poundkeeper

shall be on such poundkeeper and when any poundkeeper is charged with losing any impounded animal through negligence if it be proved that such animal was impounded in the custody of such poundkeeper such animal shall be deemed to have been lost through his negligence unless such poundkeeper shall prove the contrary.

Penalties

39. If any person commit any of the next following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100:

Rescuing impounded animal

1. Rescue or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded;

Destruction of pound

2. Destroys or injures or attempts to destroy or injure any pound;

Illegal impounding

3. Illegally impounds any animal;

Causing animal to trespass

4. Leaves open any gate or lets down any bars or makes a gap in any fence for the purpose of permitting any animal to trespass or otherwise causes any animal to trespass.

FEES.

Authorized fees

40. The following and no other shall be the fees authorized by this Ordinance in connection with animals impounded within any pound district:

Expenses for driving animal to pound

1. The proprietor of any land trespassed upon or other property injured by any animal, or the proprietor capturing any estray, shall not be allowed, paid or awarded any fee or charge for delivering such animal to the poundkeeper. 1910 (2nd Session), c. 2, s. 7.

Capturing stallion or bull

2. To such proprietor for capturing and impounding any stallion of the age of one year and upwards or any bull of the age of nine months and upwards a fee of $5;

Damages

3. To such proprietor for any damage done by any animal an amount not to exceed that mentioned in the statement of claim delivered to the owner or poundkeeper with the animal when impounded;

Giving notice or for temporary impounding

4. To such proprietor for notifying the owner or for every day any animal is lawfully detained before being placed in pound such fees for making such notification and for the sustenance of such animal as a poundkeeper may be authorized to charge for like services;

Sustenance of impounded animals

5. To the poundkeeper to provide for the care and sustenance of each animal for each day such animal is impounded as follows:

For each stallion or bull, twenty-five cents;

For each horse, mule, jack, head of cattle or swine, fifteen cents;

For each sheep, goat or goose, five cents;

Notice to owner

6. To the poundkeeper for notifying owner of animal impounded, ten cents;

Notice to department

7. To the poundkeeper for forwarding notification to department for insertion in the official gazette, ten cents;

Notices posted in district

Advertising

8. To the poundkeeper for posting notices of animals impounded each such notice to include all animals impounded at one distress or seizure $1 and the actual cost of newspaper advertising not to exceed $1 when incurred;

9. To the poundkeeper for posting notices of sale each such notice to include all animals impounded at one distress or seizure, $1; Notices of sale

10. To the poundkeeper for each mile necessarily travelled in the performance of his duty, ten cents; Mileage

11. To the poundkeeper for selling impounded animals and applying the proceeds as directed by this Ordinance, $2.50 per centum commission upon the amount realized on the sale. Sale charges

SCHEDULE.

FORM A.

To the Lieutenant Governor in Council:

We, the undersigned, being proprietors of land as defined by clause 9 of section 2 of *The Pound District Ordinance* in (*here describe the district proposed to be constituted as a pound district*) hereby record our objection to the provisions of the said Ordinance being enforced within the said district:

NAME	LAND OWNED OR OCCUPIED				
	Quarter	Section	Twp.	Range	West Meridian

I. *A.B.*, of (*post office address*) do solemnly declare:

1. That the total number of persons in the area described in the foregoing statement of objection being holders or occupiers of land under whatever tenure, is (*here insert the total number of proprietors in the proposed pound district as defined by clause 9 of section 2 of The Pound District Ordinance*);

2. That I was personally present and did see each of the (*number of persons signing the statement*) persons whose names are subscribed thereto sign the said statement;

3. That each of the (*number of persons signing the statement*) persons signing the statement is qualified to do so by virtue of being the holder or occupier of land under whatever tenure, within the proposed pound district;

4. That each person signing the said statement before so doing was cognizant of the contents thereof;

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*, 1893.

Declared before me at
this.....day
of.....191..

.....
(*Signature of person making declaration.*)

.....
(*Signature of person administering declaration.*)

1913 (1st Session), c. 9, s. 2 (7).

FORM B.

To (*name of owner or Department of Agriculture as the case may be.*)

Notice is hereby given under section 26 of *The Pound District Ordinance* that (*description of animal impounded, giving colour and markings, sex, age, brand or brands and any other marks*) was impounded in the pound kept by the undersigned on the (*description of quarter section or other place where pound is located*) on.....the.....day of
.....191.....

.....
(*Signature of Poundkeeper.*)

1913 (1st Session), c. 9, s. 2 (8).

FORM C.

To the Lieutenant Governor in Council:

We, the undersigned, being proprietors of land as defined by clause 9 of section 2 of *The Pound District Ordinance* in (*here describe the district it is desired to be constituted into a pound district*) hereby make application to have the provisions of the said Ordinance enforced within the said district during the months of (*here state months of the year it is desired to have the provisions of the Ordinance enforced*) against the following animals (*here insert names of animals*):

NAME	LAND OWNED OR OCCUPIED				
	Quarter	Section	Township	Range	West Meridian

I, *A.B.*, of (*post office address*) do solemnly declare:

1. That the total number of persons in the area described in the foregoing application being holders or occupiers of land under whatever tenure is (*here insert the total number of proprietors in the proposed pound district as defined by clause 9 of section 2 of The Pound District Ordinance*);

2. That I was personally present and did see each of the (*number of persons signing the statement*) persons whose names are subscribed thereto sign the said statement;

3. That each of the (*number of persons signing the statement*) persons signing the statement is qualified to do so by virtue of being the holder or occupier of land under whatever tenure, within the proposed pound district;

4. That each person signing the said statement before so doing was cognizant of the contents thereof;

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act*.

Declared before me at
this.....day
of.....191..

.....
(*Signature of person making declaration.*)

.....
(*Signature of person administering declaration.*)

1913 (1st Session), c. 9, s. 2 (9).

CHAPTER 80.

An Ordinance respecting Stray Animals.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The Stray Animals Ordinance.*" C.O., c. 80, s. 1.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires—

1. The expression "department" means the Department of Agriculture; Department

2. The expression "Minister" means the member of the Executive Council to whom is assigned from time to time the duty of administering the Department of Agriculture; Minister

3. The expression "cattle" means any bull, cow, ox, heifer, steer or calf; Cattle

4. The expression "horse" means any horse, mare, gelding, colt, filly, ass or mule; Horse

5. The expression "sheep" means any ram, ewe, wether or lamb; Sheep

6. The expression "animal" means any head of cattle, horse, sheep, goat, swine or goose; Animal

7. The expression "estray" means any animal found on the premises of any person other than its owner; 1913, c. 9, s. 3. Estray

8. The expression "justice" means any justice of the peace; Justice

9. The expression "owner" means any person owning any animal or agent or overseer of any such owner; Owner

10. The expression "finder" means any person who finds he has an estray on his premises; 1913, c. 9, s. 3. Finder

11. The expression "run at large" or "running at large" means without being under control of the owner either by being in direct or continuous charge of a herder or by confinement within any building or other enclosure or a fence whether the same be lawful or not. C.O., c. 80, s. 2; Running at large

12. The expression "brand reader" means any person appointed by the Minister to give an accurate description of any estray. 1909, c. 5, s. 18. Brand reader

PROCEDURE.

3. Any person who finds he has on his premises any estray animal (other than a stallion or bull) the owner of which is known to him, which cannot be driven away from such premises, shall at once notify such owner through the mail and such owner within ten days after being so notified shall remove his animal from such premises. C.O., c. 80, s. 3; 1913, c. 9, s. 3. Where owner is known

4. Any person who finds he has on his premises any estray horse or cattle the owner of which is unknown to him, which cannot be driven away from such premises, or any such horse or cattle the owner of which is known to him but which is not removed as provided in the section next preceding, shall at once notify a brand reader who shall examine such horse or cattle and prepare a notice to the effect that such horse or cattle is on the finder's premises and containing the name, location and post office address of the finder and a full description of the horse or cattle with all its marks (natural or artificial), colour and probable age, with any other marks which may lead to its identification, and the brand reader shall within three days forward a copy of such notice to the recorder of brands at Medicine Hat, who shall at once advise the brand reader whether the brand described by him is a recorded brand or not; and in the event of the same being a recorded brand he shall inform the brand reader of the name of the owner thereof, and the recorder of brands shall at once give notice to such owner through the mail that an estray bearing his brand has been reported to him, which notice shall contain the name, location and post office address of the finder. 1913, c. 9, s. 3; 1915, c. 2, s. 18.

(2) The brand reader shall at the same time forward a copy of such notice to the department, and such notice shall be published for two consecutive issues in the supplement to *The Alberta Gazette*, and a copy of each issue containing such notice shall be forwarded to every post office, to every post of the North-West Mounted Police, to every justice of the peace and to every newspaper in the province, and a copy of the same shall be forwarded with every copy of the said gazette. 1913, c. 9, s. 3.

(3) In addition to the notice forwarded for insertion in the said gazette the finder of any such animal or animals as is described in the first subsection to this section shall at the same time cause a copy of the notice, as prepared by the brand reader, to be inserted in three successive weekly issues of the nearest newspaper and any expenditure (not exceeding the sum of $1.50) made for such advertising shall be reimbursed to the finder by the owner when the animal or animals are claimed, or if not claimed, by the justice after sale of such animal or animals, upon proof of such expenditure having been made. 1913, c. 9, s. 3.

(4) The Minister shall appoint as brand readers such competent persons as may be necessary to give an accurate description of any estray animal or animals such as is called for in subsection 1 of this section, and such brand reader shall be entitled in each case to a fee of $2.00 and mileage, which shall be paid to him by the finder, who shall be reimbursed by the owner when the animal or animals are claimed, or if not claimed, by the justice out of the proceeds of the sale of such animal or animals. 1913, c. 9, s. 3.

5. The owner of any such estray animal shall be entitled to recover the same from any person in whose possession it may be, upon tender of the amount of the expenses incurred up to the time of such tender from the day on which notice of the finding of such animal was mailed to him where the owner is known, or from the day the notice was mailed to the brand reader where the owner is not known. 1913, c. 9, s. 4.

What expenses are allowed

(2) Such expenses shall consist of the sums prescribed by this Ordinance and no other; and if it is made to appear in any proceedings taken for the recovery of any such estray animal that tender was made to the finder by or on behalf of the owner of the animal of the amount of the expenses to which the said finder is lawfully entitled and that such tender was refused, the finder shall thereby forfeit all claim to such expenses in addition to any other penalty to which he may be liable. C.O., c. 80, s. 5.

(3) Before delivering the animal to the person claiming to be the owner thereof the finder may require from him a statutory declaration stating that he is the owner of the said animal. 1900, c. 30, s. 2.

Settlement of disputes as to expenses

6. In case the owner of such animal and the finder are unable to agree as to the amount of such expenses they shall forthwith proceed in the following manner: Both parties at any time within three days shall appear before the nearest accessible justice to the place where the animal was found or such other justice as the parties may mutually agree to appear before and upon hearing the statements of the parties upon oath or otherwise as to the justice shall seem advisable such justice shall determine the amount of the expenses payable in the matter and such determination of the justice shall be final and conclusive between the parties.

Justice's fee for settlement of disputes

(2) Such justice shall be entitled to a fee of $1 for determining such expenses which shall be paid by the party against whose contention the justice determines.

Penalty for default of payment of expenses

(3) In default of the payment of the expenses so determined and the justice's fees as aforesaid within a time to be stated by the justice, the justice shall sell or cause such animal to be sold by public auction either by the nearest accessible pound-keeper or by any person authorized by him in writing to sell such animal and such justice out of the proceeds of such sale shall first pay the expenses of sale and advertising and justice's fees and then the cost of keeping (if any are allowed) to the finder and the balance to the owner (if known), or otherwise to the Minister.

Report to department

(4) The justice of the peace shall immediately after the sale send to the department a return in form B in the schedule hereto.

(5) The finder of any animal shall on request of the Minister furnish him with such information as he may require in regard to such animal and the disposal of the same. C.O., c. 80, s. 6; 1900, c. 30, ss. 3 and 4.

Payment of proceeds

7. Any money paid to the Minister under the provisions of the section next preceding or the section next following shall be paid over to the owner of the animal sold on evidence (satisfactory to the Minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Minister within twelve months from the date of the sale otherwise such money shall form part of the general revenue fund. C.O., c. 80, s. 7; 1900, c. 30, s. 5.

When animal may be sold

8. If such estray animal is not claimed within sixty days after the date of the first publication of the notice provided

for in section 4 of this Ordinance the finder within twenty days thereafter shall make application to a justice in form A in the schedule hereto verified under oath before the said justice and the said justice may proceed to sell the animal and deal with the proceeds in the manner provided in subsection (3) of section 6 of this Ordinance. 1913, c. 9, s. 3.

(2) Before proceeding with such sale the said justice shall examine the animal and the brands thereon, if any, and the notice in *The Alberta Gazette* and nearest weekly newspaper provided for by section 4 hereof, and if on such examination the justice is satisfied that such notice contains an accurate and sufficient description of the animal and proof having been submitted that the same has been sent as hereinbefore provided to the recorder of brands at Medicine Hat he shall proceed to sell the same; but if not so satisfied, the justice shall direct the brand reader who gave the description to issue the proper notices as required by section 4 hereof and neither the finder nor the brand reader shall be entitled to receive any compensation for anything done prior to the mailing to *The Alberta Gazette* of the last mentioned notice. 1913, c. 9, s. 3.

(3) Before proceeding to sell an animal under this section the said justice shall eight days before the date fixed for the sale post in three conspicuous places a notice of such sale giving particulars thereof, and no sale shall take place other than at a village, town or other well known public place, and one of the notices shall be posted in the post office of the place of sale, and if this is not the nearest post office to the premises on which the animal is detained a fourth notice shall be posted at the nearest post office thereto. 1909, c. 5, s. 18.

(4) The said justice shall immediately after the sale send to the department a return in form B in the schedule hereto and such description shall be published in two successive issues of *The Alberta Gazette.* C.O., c. 80, s. 8; 1900, c. 30, s. 6; 1906, c. 34, s. 1; 1908, c. 20, s. 6; 1913, c. 9, s. 3

(5) The justice of the peace shall, immediately after such sale instruct the brand reader to brand the animal or animals sold with a brand to be designated by the Minister on such part of the animal or animals as the Minister shall direct. 1913, c. 9, s. 3.

(6) The purchaser of an animal or animals sold under the Ordinance shall retain possession of and shall not sell or dispose of or take out of the province any such animal or animals within a period of 45 days from date of the sale; in case such animal or animals are claimed by the owners such purchaser shall be entitled to recover the full price paid, together with keep as provided by the Ordinance and an amount equal to five per cent. on the purchase price. 1913, c. 9, s. 3.

(7) Where it is necessary for the justice of the peace to cause a re-advertising of an estray animal or animals through the brand reader giving an incorrect description of same, the brand reader shall pay the finder a sum equal to that which the keep of the animals so advertised would amount to for the extra period the finder has, owing to the negligence of the brand reader, to keep the same. 1913, c. 9, s. 3.

(8) A justice shall upon an animal being redeemed by the owner instruct the brand reader to vent the brand placed on such animal to be vented in the manner designated by the Minister. 1913, c. 9, s. 3.

9. At the time and place appointed for the sale of any estray animal the finder or his agent shall attend with such animal and shall with the animal present a statement of the fees for keeping and expenses incurred in connection with such animal to the justice or other person authorized by the justice to offer the animal for sale. C.O., c. 80, s. 9. 1913, c. 9, s. 3. Procedure at sale

FEES.

10. The following and no other shall be the fees payable under this Ordinance:

To the Finder:

For advertising in a newspaper, the amount actually expended not exceeding $1.50;

For mileage to and from place of sale, ten cents per mile for each mile necessarily travelled but not exceeding thirty miles;

For the care and sustenance of every head of swine, ten cents per day from the date of mailing of notice to the owner or to the official gazette;

For the care and sustenance of any horse or head of cattle during the period from 15th day of November to the 15th day of April, fifteen cents per day from the date of mailing the notice to the owner or to the brand reader, but not exceeding in all the sum of ten dollars. 1913, c. 9, s. 3.

To the Justice:

For preparing and posting notices of sale, $1;

For preparing application and administering oath, $1;

For postage and exchange or commission on transmission of proceeds of sale the amount actually expended.

To the Salesman:

Five per centum of the amount realized by the sale. 1906, c. 34, s. 2; 1908, c. 20, s. 6; 1913, c. 9, s. 3.

To the Brand Reader:

For postage, the amount actually and necessarily expended;

For preparing and forwarding notice to the department and recorder of brands, $2;

For mileage, 10 cents per mile necessarily travelled over 10 miles, but not to exceed 30 miles. 1909, c. 5, s. 18.

For branding each animal, $1;

For venting brand, $1. 1913, c. 9, s. 3.

OFFENCES AND PENALTIES.

11. If any person commit any of the next following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100: Penalty

Offences

1. Takes, rides or drives off any horse or head of cattle belonging to another without the owner's consent;

2. When taking his own animal from pasture, without the owner's consent takes or drives off the animal of any other person grazing with his own;

3. Causes or allows any horse or head of cattle belonging to another party (without consent of party) to be driven with his band or herd more than five miles from its grazing place:

Provided that if the owner of any animal in taking it from pasture finds it necessary to drive other animals a greater distance than five miles before he can separate his own animal from among them he shall not be liable to the penalties imposed by this section if he at once drives back such animals to the place from which he drove them;

4. Demands or receives any sum for keep of any animals or any fee or charge not authorized by this Ordinance;

5. Neglects to provide sustenance for any estray animal while such animal is to his knowledge upon his premises or in his band, herd or flock;

6. Rescues, incites or attempts to rescue any animal without payment of the fees due for keep and other expenses incurred by the finder on account of such animal;

7. Rides, drives or otherwise works or uses for his own pleasure or benefit any estray horse or ox captured or detained under any of the provisions of this Ordinance;

8. Neglects to promptly notify the owner (if such owner is known) or if such owner after due notification does not take away his animal or (if such owner is not known) neglects to forward the notice provided for in section 4 of this Ordinance to the department on finding an estray animal on his premises; 1915, c. 9, s. 3.

9. Being the finder or brand reader, purchases in person or by his agent or has any interest of any kind in any animal sold under the provisions of this Ordinance. 1915, c. 9, s. 3.

10. Being the finder or brand reader, is negligent and careless in reading or deciphering a brand or gives a wrong description of an animal. 1913, c. 9, s. 3.

(2) The owner of any horse who neglects to remove the same from the premises where it has been found within fifteen days after he has been notified under the provisions of section 3 hereof shall be liable to a penalty of $1 for each day during which such neglect continues after the expiration of the said fifteen days. C.O., c. 80, s. 11; 1900, c. 30, s. 8.

12. Nothing in the preceding section shall prevent the owner of any animal taken, ridden or driven off, improperly treated or worked as aforesaid, bringing a civil action for damages in addition to any penalty imposed hereunder. C.O., c. 80, s. 12.

13. Nothing in this Ordinance relating to estray animals shall impair the rights, powers or procedure given under any Ordinance respecting the seizure, driving, impounding or selling animals running at large or doing damage. C.O., c. 80, s. 13.

SCHEDULE.

FORM A.

To *A.B.*, a justice of the peace in and for the North-West Territories:

The applicant avers that on the.....day of..... 19....., (*naming the date of capture*) he found a (*description of animal found*) on his premises;

That he is unable to drive such animal away from his premises;

That he has given the notices required by *The Stray Animals Ordinance;*

That the notice was published in the issue of the official gazette dated (*date of first issue of gazette containing notice*);

That sixty days have elapsed since the date of the first publication of the notices provided for in Section 4 without the said animal having been released by the payment to the applicant of the moneys he is entitled to be paid under the provisions of the said Ordinance;

That the applicant prays that the said animal may be sold at a time not earlier than the eighth day after the date of this notice.

(*Signature of captor.*)

I, (*name of finder*), the applicant above named make oath and say that the facts set forth in the above application are true in substance and fact.

(*Signature of Captor.*)

Sworn before me at
this.....day of.....19...

A.B., J.P.

1915, c. 2, s. 18; 1913, c. 9, s. 3.

FORM B.

Return of animal sold under *The Stray Animals Ordinance.*

INFORMATION REQUIRED BY DEPARTMENT	DETAILS FURNISHED BY JUSTICE
Class of animal	
General description and brand (if any)	
Name and address of finder	
Date of capture	
Dates of gazettes containing notices	
Date of sale	
Name of purchaser	
Address of purchaser	
Number of days' keep	
Total amount realized	$
Commission on sale	$
Justices' fees	$
Keep	$
Mileage for finder.....miles @ 10c. per mile	$
Brand Readers fee	$
Brand Readers mileage.....miles @ 10c. per mile	$
Postage and exchange	$
Amount sent to Department	$

.....J.P.

Date..... Post Office.....

CHAPTER 81.

An Ordinance respecting the Herding of Animals.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Herd Ordinance.*" C.O., c. 81, s. 1.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires—

Department

1. The expression "department" means the Department of Agriculture;

Minister

2. The expression "Minister" means the member of the Executive Council to whom is assigned from time to time the duty of administering the Department of Agriculture;

Animal

3. The expression "animal" means any horse, mule, jack, sheep, goat, neat cattle or swine;

Trespasser

4. The expression "trespasser" means any animal doing damage in the herd district in the manner mentioned in section 6 of this Ordinance;

Poundkeeper

5. The expression "poundkeeper" means the person for the time being in the authorized charge of any pound;

Justice

6. The expression "justice" means any justice of the peace;

Proprietor

7. The expression "proprietor" means the owner of any cultivated land or stack of grain or hay or the person having a permit or license to cut hay or any superintendent, overseer, servant or other person acting for and on behalf of such owner or person;

Owner

8. The expression "owner" means any person owning any animal or any agent or overseer of any such owner;

Distrainer

9. The expression "distrainor" means any person seizing or distraining any trespasser;

Running at large

10. The expression "run at large" or "running at large" means without being under control of the owner either by being securely tethered or in direct or continuous charge of a herder or by confinement within any building or other enclosure or a fence whether the same be lawful or not;

Herd district

11. The expression "herd district" means the portion or portions of the Territories to which the provisions of section 6 of this Ordinance have been declared to apply in the manner provided in sections 3 and 4 of this Ordinance. C.O., c. 81, s. 2.

ORGANIZATION OF HERD DISTRICT.

What districts may be organized and how

3. The Lieutenant Governor in Council may by order made public by notice in the official gazette declare that the provisions of section 6 of this Ordinance shall apply to any part of the province lying to the north of township 34 and to the east

of range 11 and south of the 55th parallel in the Dominion lands system of survey not within the limits of any pound district and being not less than 144 square miles in area; and thereafter the Lieutenant Governor in Council by order made public in like manner may enlarge such district by adding thereto any adjoining area or may cancel the order or orders constituting such district or any part of such district. C.O., c. 81, s. 3; 1908, c. 20, s. 7.

Notice to be given

4. Before making any such declaration a notice of intention to do so shall be published in the official gazette and posted in at least one post office in each township within that part of the Territories to be affected by such recommendation or if there be no post office in such township then in the post office nearest thereto at least thirty days prior to making such recommendation.

How

(2) Such notice shall be addressed to the postmaster at such post office enclosed in a registered cover; and all the requirements of this Ordinance respecting the posting of notices shall be held to be completed at the expiration of twenty-four hours after the first mail carrying such notice is scheduled to reach the post office to which the notice is directed.

Objections, how to be made

(3) If at any time within thirty days after such notice is posted objection is made by a majority of the proprietors of land within such proposed district in form A in the schedule hereto, the facts stated in such objection and the signatures thereto being verified by statutory declaration, the proposed declaration shall not be made with respect to such district; but if no such objection is made within thirty days from the posting of the notice the proposed declaration may be made as hereinbefore provided. C.O., c. 81, s. 4.

OPERATION OF ORDINANCE.

When Ordinance shall operate

5. The provisions of section 6 of this Ordinance shall apply in the herd district between the fifteenth day of May and the thirtieth day of October, both days inclusive, in each year and shall commence to take effect in any area brought under the operation of the said section after the passing of this Ordinance on, from and after the fourteenth day after the date of the issue of the official gazette containing the notification of such area being brought under the provisions of the said section 6 in the manner hereinbefore provided. Provided that the Lieutenant Governor in Council may extend the time to any date after said 30th day of October during which the provisions of said section 6 shall apply. C.O., c. 81, s. 5; 1911-12, c. 14.

Actions for the doing of which animals may be impounded

6. Any proprietor may distrain any animal in the herd district within any period in which this section is in force in such district which is doing damage upon his cultivated land or stacks of grain or hay or upon any slough growing hay in his possession or with respect to which he has a permit or license to cut hay; and when any such distress is made the distrainor may drive and deliver the animal distrained to the nearest accessible poundkeeper in the herd district and the said poundkeeper shall impound such animal and shall be responsible for the feed and safe keeping thereof so long as he is legally bound to hold the same and such poundkeeper is empowered to collect

the amount of the damage caused by and all the charges for the keeping and other incidental expenses connected with such animal before delivering up the same to the owner; and it shall be the duty of the distrainor to leave with the poundkeeper a statement in writing describing the animal distrained, the name of the owner (if known), the place where such distraint was made, the extent of the damage and the amount of the claim therefor and of his reasonable charges incurred in driving such animal to and delivering the same to the poundkeeper. C.O., c. 81, s. 6.

Stallions or bulls in herd district

7. No procedure under *The Entire Animals Ordinance* shall be taken with respect to stallions or bulls in any herd district, but if the proprietor of any land in any herd district captures any stallion or bull running at large within such herd district he shall drive such stallion or bull to and deliver the same at the nearest accessible pound in the said herd district whether the owner of such stallion or bull be known to the captor or not; and such stallion or bull shall be dealt with in every way as a trespasser may be dealt with under this Ordinance:

Proviso

Provided that the owner of any stallion or bull who after receiving a notice signed by a justice of the peace that such stallion or bull is running at large contrary to the provisions of this Ordinance and requiring such owner to capture and confine the same neglects or refuses within forty-eight hours to comply with such notice, shall be guilty of an offence and liable on summary conviction thereof before a justice of the peace to a penalty of $5 for every day after the expiration of the time mentioned in said notice the stallion or bull is at large. C.O., c. 81, s. 7.

Animal to be placed in authorized pound

8. Any proprietor who shall impound any animal in any pound or place not authorized by this Ordinance shall be guilty of an offence and upon summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $20.

Temporarily impounded

(2) Any such proprietor upon whose property any animal is found trespassing may (if he know its owner) temporarily impound the same in any convenient place for a period not exceeding three days and shall within twenty-four hours after such impounding deliver to such owner a written memorandum in like manner as it is hereinbefore enacted shall be delivered to a poundkeeper with any trespasser impounded in his pound; and shall feed and maintain such animal so impounded; and may at the expiration of such time (if not sooner duly released) deliver it to the keeper of the nearest accessible pound; and such proprietor may make a charge for feeding and maintaining such animal and for sending notice not exceeding such as might by law be made by a poundkeeper, but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding. C.O., c. 81, s. 8.

APPOINTMENT OF POUNDKEEPERS.

Poundkeepers to be appointed by the Minister

9. In any herd district the Minister may appoint one or more poundkeepers therefor and notice of every such appointment shall be published in the official gazette, describing the name

and post office address of such poundkeeper and the location of the pound:

Provided that all pounds established or poundkeepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and the poundkeepers appointed under the provisions of this Ordinance and subject to the provisions thereof. C.O., c. 81, s. 9. Proviso

10. Every appointment of a poundkeeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all poundkeepers so appointed may at the expiry of each period of twelve months be eligible for reappointment. All appointments to terminate on December 31 annually

(2) Any poundkeeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such poundkeeper is appointed. C.O., c. 81, s. 10. Resignation of poundkeeper

11. Every notice of the appointment or removal of any poundkeeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such poundkeeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. C.O., c. 81, s. 11. Publication of notices

DUTIES OF POUNDKEEPERS.

12. Every poundkeeper shall keep a pound book in a form to be prescribed by the Minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the poundkeeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West Mounted Police force free of charge and of any other person upon payment of the sum of ten cents; and every such poundkeeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred. Book to be kept by poundkeeper

(2) Every poundkeeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. C.O., c. 81, s. 12. and handed over to successor

13. Every poundkeeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the poundkeeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every poundkeeper shall be responsible to the owner of any impounded animal for every loss or damage occasioned by any act of himself or his agent. C.O., c. 81, s. 13. Pounds to be kept clean

Returns to be made

14. Every poundkeeper shall make such return to the Minister relating to the impounding of animals in his pound as may from time to time be required by him. C.O., c. 81, s. 14.

PAYMENT OF CHARGES ON IMPOUNDED ANIMALS.

Charges to be payable to poundkeeper

15. All charges payable in respect of any impounded animal shall be payable in the first instance to the poundkeeper who shall hold the same subject to the provisions of this Ordinance for the person entitled thereto. C.O., c. 81, s. 15.

Penalty for improper impounding

16. No charges or claim for damages done shall be payable to or recoverable by any person in respect of the trespass of or damage done by any animal who shall impound or detain such animal for upwards of three days in any place not being a pound within the meaning of this Ordinance. C.O., c. 81, s. 16.

Animals may be released before impounding

17. Whenever any animal has been captured or distrained by any person under any of the provisions of this Ordinance for the purpose of impounding the same if the owner of the animal or some person on his behalf pay or tender to the person seizing or having charge of such animal before the same has been actually impounded the charges for which such animal has then become liable under this Ordinance, the person having charge of such animal shall forthwith deliver up the same to the owner or the person tendering the said charges on his behalf. C.O., c. 81, s. 17.

Poundkeeper to detain all animals impounded

18. Every poundkeeper shall receive and retain in his custody any animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges shall be paid or until he shall receive notice of the decision of the justice as hereinafter provided. C.O., c. 81, s. 18.

NOTICE OF IMPOUNDING.

Notices to be given by poundkeeper

19. If the owner of any impounded animal is known to the poundkeeper the poundkeeper shall forthwith deliver at or post to the address of such owner a notice in form B in the schedule hereto.

(2) In case such owner is not known or such owner or person notified shall not within three days after the posting or delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages the poundkeeper shall forward to the department for insertion in two consecutive issues of the official gazette a notice in form B in the schedule hereto. C.O., c. 81, s. 19.

Copies of all notices to be posted at pound

20. Every poundkeeper shall without charge therefor in addition to any copies of any notice which he may be required under this Ordinance to post or deliver, post a copy of every such notice in a conspicuous place at his pound and shall keep and maintain such notice at his pound during the whole of such time such notice may refer to. C.O., c. 81, s. 20.

SALE OF IMPOUNDED ANIMALS.

When impounded animals may be sold

21. When any animal shall not have been released from the pound within twenty days after the notice has been inserted in the official gazette as in section 19 mentioned the said animal shall be sold by public auction after notice of such sale shall have been posted for eight days in three conspicuous places within the herd district (one of which shall be the post office nearest the pound); and at such sale the poundkeeper shall be the auctioneer and such sale shall be held at the pound and shall commence at the hour of two o'clock in the afternoon and the poundkeeper shall neither in person nor by his agent purchase any animal at such sale or have any interest of any kind in any animal so purchased. C.O., c. 81, s. 21.

Poundkeeper not to have interest in sale

When animals may not be sold

22. If more than one animal is impounded on any distress and the owner thereof is known the poundkeeper shall not sell any more of such animals after he has realized from the sales sufficient to satisfy the claims for damages, expenses and fees chargeable against the animals and the owner of the animals shall be entitled to those remaining unsold.

(2) If the owner of the animals is unknown the poundkeeper shall sell all the animals impounded.

(3) The poundkeeper shall immediately after such sale send to the department a description of the animal or animals sold, the date of sale, the amount realized and the disposition thereof. C.O., c. 81, s. 22.

Poundkeeper need not be licensed as auctioneer

23. No poundkeeper making a sale under the provisions of any Ordinance shall be liable to a penalty for selling without a license as an auctioneer. C.O., c. 81, s. 23.

PROCEEDS OF SALES, HOW DISPOSED OF.

Disposal of proceeds of sale

24. The proceeds of the sale of any impounded animal sold under the provisions of this Ordinance shall be applicable in payment—

(*a*) Of any costs and charges attending such sale;

(*b*) Of all sustenance fees;

(*c*) To the impounder of such animal of the amount due to him for mileage charges and for the damage done;

(*d*) The residue if any to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the Minister. C.O., c. 81, s. 24.

Owner's claim to net proceeds

25. Any money paid to the Minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence (satisfactory to the Minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C.O., c. 81, s. 25.

COMPLAINTS OF OWNER.

What action may be taken by owner

26. The owner of any impounded animal may give notice in writing to the poundkeeper that he intends to complain to a justice against the person impounding such animal; and upon

receipt of such notice and on deposit with the poundkeeper of the amount claimed for damages together with the pound and other authorized fees and charges the poundkeeper shall release such animal and shall retain such amount subject to the order of the justice as hereinafter provided.

How complaint shall be formulated

(2) Such complaint may be upon one of the following grounds:

(*a*) That the impounding was illegal; or

(*b*) That the damages claimed are excessive; or

(*c*) That the impounding was illegal but that in any event the damages are excessive;

but the justice shall not inquire into any complaint notice of which has not been given. C.O., c. 81, s. 26.

Hearing of complaint

27. Within ten days after giving the notice in the last preceding section mentioned the owner may lodge his complaint as set forth in the notice with a justice of the peace who thereupon shall institute the like proceedings as are authorized under part LVIII of The Criminal Code 1892 for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint; and if the justice—

1. Adjudges that the animal impounded was illegally impounded as claimed the justice shall order the said animal (if not released) to be restored to the owner or (if released) the money deposited with the poundkeeper to be repaid and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the poundkeeper is lawfully entitled to; or

2. Finds on a complaint laid as in clause (*b*) of subsection (2) of the last preceding section the amount of damages the impounder has sustained to be less than claimed then the justice shall order the excess and the owner's cost of the proceedings to be paid to the owner by the poundkeeper out of the money paid in by the owner; and if no money has been paid in by the owner the justice shall order the payment forthwith of the amount of the damages so fixed less the costs of the proceedings and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

3. Adjudges that the animal impounded was legally impounded or that the amount of the damage sustained was not less than the amount claimed then the justice shall make an order for the payment forthwith of the amount claimed by the impounder and all pound and other authorized fees together with the costs of the proceedings; and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

4. Finds on a complaint laid as in clause (*c*) of subsection 2 of the last preceding section that the animal was legally impounded but that the damages sustained by the impounder were less than claimed the justice shall make an order as directed by paragraph 2 of this section but shall not allow costs to either party and proceedings shall be taken on any such order as provided by such paragraph. C.O., c. 81, s. 27.

Owner's remedies at common law

28. Nothing in this Ordinance contained shall deprive the owner of any animal impounded of any action, remedy or right

that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded:

Proviso

Provided always that if any action be brought against a poundkeeper for anything done by him under this Ordinance he may plead not guilty to such action; and if on the trial of such action it is made to appear that the said poundkeeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such poundkeeper judgment shall then be given for him with costs. C.O., c. 81, s. 28.

Damages may be claimed by action in competent court

29. Nothing herein contained shall prevent the owner of any lands trespassed upon or of any property destroyed from waiving the rights created by this Ordinance and bringing his action in any competent court in consequence of any trespass. C.O., c. 81, s. 29.

OFFENCES AND PENALTIES THEREFOR.

30. If any poundkeeper—

Penalties poundkeepers are liable to for— Impounding

1. Impounds or assists or incites or employs any person to impound any animal in any district unless such animal was doing damage on the poundkeeper's own property as described in section 6 of this Ordinance;

Purchasing impounded animals

2. Purchases in person or by his agent or has any interest of any kind in any animal sold by auction at a pound of which he is at the time of such sale the poundkeeper;

Making unauthorized charges

3. Demands or receives any sum for pound notices, sustenance and other fees and charges not authorized by this Ordinance;

Not paying over moneys

4. Fails to pay over any money held by him under the provisions of this Ordinance for any person after payment of the same has been demanded by or on behalf of such person;

Neglecting to care for impounded animals

5. Neglects to provide food and water for any animal or works or uses the same in any manner while so impounded:

Milking cows

Provided that no poundkeeper shall be liable for any penalty for milking or allowing to be milked any cow while such cow is impounded;

Not keeping books

6. Omits or neglects to keep books and to make entries therein as required by this Ordinance or makes any incorrect or untrue entry in such books;

Impounding healthy with diseased animals

7. Allows any animal affected with any contagious or infectious disease to be in the same enclosure with any impounded animal not so affected;

Not proper notice

8. Fails to give any notice required by this Ordinance;

Causing damage by by neglect

9. Neglects to do anything required by this Ordinance to be done whereby damage is incurred by any person;

he shall in addition to any civil liability which he may incur by reason thereof be guilty of an offence and liable on summary conviction to a penalty not exceeding $100. C.O., c. 81, s. 30.

Burden of proof that animals are cared for, on poundkeeper

31. When any poundkeeper is charged with neglecting to provide sustenance for any animal impounded the burden of proving that proper sustenance was provided for such animal shall be on such poundkeeper, and when any poundkeeper is charged with losing any impounded animal through negligence

if it be proved that such animal was impounded in the custody of such poundkeeper such animal shall be deemed to have been lost through his negligence unless such poundkeeper shall prove the contrary. C.O., c. 81, s. 31.

Penalties

32. If any person commit any of the next following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100:

Rescuing impounded animal

1. Rescues or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded;

Destruction of pound

2. Destroys or injures or attempts to destroy or injure any pound;

Illegal impounding

3. Illegally impounds any animal;

Causing animal to trespass

4. Drives any animal upon any cultivated land or to any stack of grain or hay or upon any slough growing hay. C.O., c. 81, s. 32.

FEES.

Authorized fees

33. The following and no other shall be the fees authorized by this Ordinance in connection with animals impounded within any herd district:

Expenses for driving animal to pound

1. To the proprietor of any land trespassed upon or other property injured by any animal or the proprietor capturing any estray, for driving and delivering such animal to the poundkeeper, his reasonable expenses;

Capturing stallion or bull

2. To such proprietor for capturing and impounding any stallion of the age of one year and upwards or any bull of the age of nine months and upwards, a fee of $5;

Damages

3. To such proprietor for any damage done by any animal an amount not to exceed that mentioned in the statement of claim delivered to the owner or poundkeeper with the animal when impounded;

Giving notice or for temporary impounding

4. To such proprietor for notifying the owner or for every day any animal is lawfully detained before being placed in pound, such fees for making such notification and for the sustenance of such animal as a poundkeeper may be authorized to charge for like services;

Sustenance of impounded animals

5. To the poundkeeper to provide for the care and sustenance of each animal for each day such animal is impounded as follows:

For each stallion or bull, twenty-five cents;

For each other horse, mule, jack, head of cattle or swine, fifteen cents;

For each sheep or goat, five cents;

Notice to owner

6. To the poundkeeper for notifying owner of animal impounded, ten cents;

Notice to department

7. To the poundkeeper for forwarding notification to department for insertion in the official gazette, ten cents;

Notices posted in district

8. To the poundkeeper for posting notices of animals impounded, each such notice to include all animals impounded at one distress or seizure, $1; and the actual cost of newspaper advertising, not to exceed $1, when incurred;

Advertising

Notices of sale

9. To the poundkeeper for posting notices of sale, each such notice to include all animals impounded at one distress or seizure, $1;

10. To the poundkeeper for each mile necessarily travelled in the performance of his duties, ten cents; Mileage

11. To the poundkeeper for selling impounded animals and applying the proceeds as directed by this Ordinance, $2.50 per centum commission upon the amount realized on the sale. C.O., c. 81, s. 33. Sale charges

SCHEDULE.

FORM A.

To the Lieutenant Governor in Council:

We, the undersigned, being proprietors or occupiers of land in (*here describe the district proposed to be constituted as a herd district*), hereby record our objection to the provisions of *The Herd Ordinance* being enforced within the said district:

NAME	LAND OWNED OR OCCUPIED				
	Quarter	Section	Township	Range	West Meridian

I, *A.B.*, of (*post office address*), do solemnly declare:

1. That the total number of persons in the area described in the foregoing statement of objection being holders or occupiers of land under whatever tenure or superintendents, overseers or other duly authorized persons acting for or on behalf of such holders or occupiers, is (*here insert the total number of persons residing in the proposed herd district and owning or occupying land therein*);

2. That I was personally present and did see each of the (*number of persons signing the statement*) persons whose names are subscribed thereto sign the said statement;

3. That each of the (*number of persons signing the statement*) persons signing the statement is qualified to do so by virtue of being the holder or occupier of land under whatever tenure or a superintendent, overseer or other duly authorized person acting for or on behalf of such holder or occupier of land within the proposed herd district;

4. That each person signing the said statement before so doing was cognizant of the contents thereof.

And I make this solemn declaration conscientiously believing it to be true and knowing it to be of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act* 1893.

Declared before me this.....day of.....1.... at.....

.....
Signature of person making declaration.)

.....
(*Signature of person administering declaration.*)

FORM B.

To (*name of owner or* Department of Agriculture *as the case may be.*)

Notice is hereby given under section 19 of *The Herd Ordinance* that (*description of animal impounded*) was impounded in the pound kept by the undersigned on the (*description of quarter section or other place where pound is located*) on.....day the.....day of 1.....

.....

(*Signature of Poundkeeper.*)

CHAPTER 82.

An Ordinance for the Protection of Sheep and other Animals from Dogs.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

When dog may be killed

1. Any person may kill any dog in the act of pursuing, worrying or destroying cattle, horses, sheep, pigs or poultry elsewhere than on the enclosed land occupied by the owner of such dog. C.O., c. 82, s. 1.

Proceedings against owner of vicious dog

2. On complaint made on oath before a justice of the peace that any person owns or has in his possession a dog which has within three months previous, worried, injured or destroyed any cattle, horses, sheep, pigs or poultry outside of the enclosed land occupied by such person, such justice of the peace may issue his summons directed to such person stating shortly the matter of such complaint and requiring such person to appear before him at a certain time and place therein stated, to answer to such complaint; and upon conviction on the evidence of one credible witness other than the complaint, of having such dog in his possession the justice of the peace shall order such dog to be killed within twenty-four hours and in addition thereto may in his discretion impose a fine upon such person not exceeding $20 with costs. 1913 (1st Session), c. 9, s. 4.

Action for damages not barred

3. No order or conviction under this Ordinance shall bar any action by the owner or possessor as aforesaid for the recovery of damages in respect of the subject matter for which such conviction is had. C.O., c. 82, s. 3.

Proof of knowledge of owner unnecessary

4. It shall not be necessary for the plaintiff in any action for injuries done by a dog as aforesaid to prove that the defendant was aware of the propensity of the same to pursue and injure animals nor shall the liability of the owner or possessor as aforesaid of any dog for any injury done by such dog depend upon his previous knowledge of the propensity of the same to injure animals. C.O., c. 82, s. 4.

CHAPTER 83.

An Ordinance respecting Stock Injured by Railway Trains.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Notices to be given when stock killed or injured

1. In the event of any stock being killed or injured by any railway train the conductor or other person in charge of the said train shall forthwith notify the nearest station agent of the railroad company upon whose line of railway the accident has occurred and the said agent shall forthwith in case the owner is known or afterwards becomes known to the agent send a notice to the owner stating the date and place of the accident. C.O., c. 83, s. 1.

Notice to be posted

2. The agent shall in all cases forthwith post in a public place and manner in the station house a notice giving a full description of the animal or animals with a statement of the time and place where the animal or animals were killed or injured and such notice shall not be removed for three months unless in the meanwhile the owner becomes known to the agent. C.O., c. 83, s. 2.

Penalty

3. Any person infringing any of the provisions of this Ordinance shall be liable on summary conviction thereof to a penalty of not more than $50. C.O., c. 83, s. 3.

CHAPTER 84.

An Ordinance respecting Noxious Weeds.

(1903, 1st Session, c. 24.)

Chapter 15, 1907, substituted.

CHAPTER 85.

An Ordinance for the Protection of Game.

(1903, 2nd Session, c. 29.)

Chapter 14, 1907, substituted.

TITLE XI.

RELATING TO PROTECTION OF PERSON AND PROPERTY.

CHAPTER 86.

An Ordinance to Prevent the Pollution of Running Streams.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

1. Any person who deposits or causes or allows to be deposited along the bank of any running stream in the Territories or who shall cast or throw into its waters any stable manure or any night soil, carcasses, or any other filthy or impure matter or substance of any kind shall be guilty of an offence and on summary conviction for each and every such offence incur a penalty of not less than $5 together with the costs of prosecution; and on nonpayment of such penalty and costs forthwith after conviction be imprisoned in the nearest common gaol for a term not exceeding one month unless such penalty and costs are sooner paid. C.O., c. 86, s. 1. Depositing filth in streams. Penalty.

2. The banks of all running streams within the Territories shall for the purposes of this Ordinance include all lands within fifty feet of ordinary high water mark on either side of such streams. C.O., c. 86, s. 2. Banks of streams.

3. This Ordinance shall not refer to the discharge of sewer waters from any pipe or drain leading from any dwelling house, hotel or public institution. C.O., c. 86, s. 3. Sewage.

CHAPTER 87.

An Ordinance for the Prevention of Prairie and Forest Fires.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Prairie Fires Ordinance.*" C.O., c. 87, s. 1.

PROVISIONS AGAINST KINDLING FIRES.

Causing prairie fires

2. Any person who shall either directly or indirectly, personally or through any servant, employee or agent—

(*a*) Kindle a fire and let it run at large on any land not his own property;

(*b*) Permit any fire to pass from his own land; or

(*c*) Allow any fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent to run at large,

Penalty

shall be guilty of an offence and shall on summary conviction thereof be liable to a penalty of not less than $25 and not more than $200 and in addition to such penalty shall be liable to civil action for damages at the suit of any person whose property has been injured or destroyed by any such fire.

(2) If a fire shall be caused by the escape of sparks or any other matter from any engine or other thing it shall be deemed to have been kindled by the person in charge or who should be in charge of such engine or other thing but such person or his employer shall not be liable to the penalties imposed by this section if in the case of stationary engines the precautions required by section 12 have been complied with and there has been no negligence in any other respect or in the case of railway or other locomotive engines such engine is equipped with a suitable smoke-stack netting and ash pan netting in good repair and kept closed and in proper place and in the case of railway engines where the line of railway passes through prairie country there is maintained for a distance of at least three miles continuously in each direction from the point at which the fire starts on each side of such line of railway and not less than two hundred nor more than four hundred feet therefrom a good and sufficient fireguard of ploughed land not less than sixteen feet in width kept free from weeds and other inflammable matter and the space between such fireguard and such line of railway is kept burned or otherwise freed from the danger of spreading fire and there has been no negligence in any other respect.

(3) For the purpose of ploughing any fireguard as in the next preceding subsection provided and of freeing from inflammable matter the land between such fireguard and the line of railway any railway company is hereby authorized to enter upon any

uncultivated or unoccupied land without incurring any liability therefor provided that no unnecessary damage shall be done, C.O., c. 87, s. 2; 1903 (1st session), c. 25, s. 1; 1903 (2nd session), c. 30, s. 1.

CAMP OR BRANDING FIRE.

Camp or branding fires, extinguishment

3. Any person who kindles or is a party to kindling a fire in the open air for camping or branding purposes and who leaves the same without having extinguished it shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100. C.O., c. 87, s. 3.

CLEARING LAND.

Fire guards in certain cases

4. No person shall directly or indirectly, personally or by any servant, agent or employee kindle on any land a fire for the purpose of guarding property, burning stubble or bush or clearing land unless the land on which the fire is started is, at the time it is started, completely surrounded by a fireguard not less than twenty feet in width consisting of land covered with snow or water or so worn, graded, ploughed, burned over or covered with water as to be free of inflammable matter and any person kindling a fire for such purpose shall during the whole period of its continuance cause it to be guarded by three adult persons provided with proper appliances for extinguishing prairie fire.

(2) Any person contravening this section shall be guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding $100. C.O., c. 87, s. 4.

FIRES BY RAILWAY EMPLOYEES.

Railway companies and employees

5. Nothing in this Ordinance shall prevent any railway company or its employees from burning over the land held by it under its right-of-way and the land adjoining the same to an extent not exceeding three hundred feet in width on each side of the centre line of the railway.

(2) Every person causing, commencing or in charge of such burning shall cause the same during the whole period of its continuance to be watched and guarded by at least four men provided with suitable appliances for extinguishing prairie fire and in default thereof shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100.

(3) This section shall not relieve any person from liability under this Ordinance if any fire so started shall escape or run at large. C.O., c. 87, s. 5.

SPRING BURNING.

Fires before 7th May

6. Nothing herein contained shall prevent any person from kindling fire before the 7th day of May in any year for the purpose of clearing any area of land not exceeding three hundred and twenty acres if such land is completely surrounded by a fireguard not less than ten feet in width consisting of land covered with snow or water or being so worn, graded, ploughed, burned over or covered with water as to be free from inflammable matter.

(2) Any person so kindling a fire shall cause it to be guarded during the whole period of its continuance by three adult persons provided with proper appliances for extinguishing prairie fire and should such fire be left without being so guarded or be allowed to escape such person shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100. C.O., c. 87, s. 6.

FIRES BY LOCAL IMPROVEMENT OVERSEERS.

Overseers of local improvement districts exceptions

7. Nothing in this Ordinance contained shall prevent the overseer of any local improvement district from kindling a fire for the purpose of making a fireguard but the area which it is proposed to burn must be completely enclosed by a fireguard at least ten feet in width such as is described in section 6 hereof and such fire so kindled must during the whole period of its burning be guarded by such number of men provided with proper appliances for extinguishing prairie fire, not being less than four men, as will be reasonably sufficient to control such fire and if the precautions hereby required are not taken or if such fire should escape and run at large such overseer shall be deemed guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding $100. C.O., c. 87, s. 7.

PROSECUTIONS.

Burden of proof negativing exceptions

8. It shall not be necessary that any prosecutor or complainant shall in any information or complaint for an offence under this Ordinance negative any exemption, exception, proviso or condition herein contained or prove any such negative at the hearing or trial but the accused person may prove the affirmative thereof in his defence if he wishes to avail himself of it. C.O., c. 87, s. 8.

RIGHTS OF ACTION PRESERVED.

Rights preserved

9. Nothing in this Ordinance shall bar or prevent any person from bringing any action against any person to which he may otherwise be entitled. C.O., c. 87, s. 9.

FIRE GUARDIANS.

Fire guardians

10. The commissioner of agriculture may appoint fire guardians having the powers of constables to enforce the provisions of this Ordinance and all justices of the peace, all members of the North-West Mounted Police force and all councillors of local improvement districts shall be *ex officio* fire guardians. C.O., c. 87, s. 10; 1906, c. 33.

Powers of fire guardians

11. Any fire guardian may order any grown-up male person under sixty years of age (other than postmasters, railway station agents, members of the medical profession, telegraph operators, conductors, engineers, brakesmen, firemen or trainmen) residing or then being within ten miles of a prairie fire or within fifteen miles of a bush fire to proceed at once to the locality of such fire and assist in extinguishing it; and any person neglecting or refusing without lawful excuse to obey any such order shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $5. C.O., c. 87, s. 11.

THRESHING ENGINES.

12. The following provisions shall be observed in and about the management and operation of engines used for threshing and other purposes but shall not apply to railway locomotive engines or engines enclosed in a suitable building: Management and operation of threshing engines

1. The engine shall not be placed for the purpose of working so that any part thereof will be within thirty feet from any building or stack;

2. A metal pan of adequate size shall be placed under the engine as a receptacle for cinders and ashes and such metal pan shall be kept filled with water;

3. Before the fires are lit in the furnace and during the whole time the engine is in operation the reservoir in the smoke stack shall be filled with water;

4. All cinders and ashes shall be thoroughly extinguished before the engine is removed from where it has been in operation;

5. A barrel of water and two buckets shall be provided and placed conveniently to any stacks or combustible material near the engine;

6. A spark arrester in good repair shall be used and shall not be opened while the engine is in operation.

(2) Any person contravening or failing to comply with any of the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $5. C.O., c. 87, s. 12; 1904, c. 13, s. 1.

EXTRACT.

Order No. 3245.

THE BOARD OF RAILWAY COMMISSIONERS FOR CANADA.

MEETING AT OTTAWA, THURSDAY, THE 4TH DAY OF JULY, A.D. 1907.

Present:

A. C. KILLAM,
Chief Commissioner.

HON. M. E. BERNIER,
Deputy Chief Commissioner.

JAMES MILLS,
Commissioner.

In pursuance of the powers conferred upon it by sections 30 and 269 of *The Railway Act*, and of all other powers possessed by the Board in that behalf:

The Board doth order and direct as follows:

9. Every railway company subject to the legislative authority of the Parliament of Canada operating a railway by the power of steam, in the Province of Alberta, shall establish and maintain along the line of railway where the same passes through prairie country in the said province, on each side of such line of railway and of not less than three hundred feet in width from the centre of the railway, a good and sufficient fireguard to be made by ploughing the land to the extent of not less than sixteen feet in width on the side of the fireguard farthest from the railway, and by burning or otherwise freeing from inflammable materials the spaces between such ploughing and such line of railway.

10. Every such company shall, at all times, keep such fireguards free from weeds and other inflammable material, and in such condition as not to allow fire to spread thereon and therefrom through coals, cinders, or sparks falling from or emitted by engines upon its railway.

11. Provided, that no such railway company shall be bound to enter upon the lands of another for any of the purposes aforesaid without the consent of the owner of the said lands, unless such company can lawfully do so without being liable to make compensation therefor.

Provided also, that the said railway companies shall not be required to establish and maintain such fireguards where the nature of the country renders it impossible to do so, or where the doing so would involve serious loss and damage to property,—all such places and portions of line or lines to be specifically described and reported to the board.

12. The fireguards herein provided for to be completed on or before the 1st day of September of the present year, and after this year, on or before the 1st day of August in each year; and in other respects these regulations shall take effect and be operative on and from the 1st day of September next.

13. These regulations shall not have effect during the months of December, January, February or March in any year.

14. Every railway company subject to the legislative authority of the Parliament of Canada disobeying or failing to comply with the provisions of these regulations shall be liable to a penalty of one hundred dollars for every such disobedience or failure to comply with the provisions of these regulations respecting fireguards.

(*Signed*) A. C. KILLAM,
Chief Commissioner,
Board of Railway Commissioners for Canada.

CHAPTER 88.

An Ordinance respecting the Construction of Chimneys.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Chimneys

1. No person shall construct or use a chimney in any portion of the Territories unless the same be constructed of walls of stone or brick and mortar, concrete or clay at least four inches thick and projecting at least three feet above the roof of the building wherein the same is or is to be used; or where stove pipes pass through a roof they must be firmly secured, the wood be cut away at least three inches from and around the pipe and protected by sheet iron, tin, or zinc or pass through a safe the same as ceiling hereinafter mentioned. C.O., c. 88, s. 1.

Stove pipes

Stove pipe passing through partitions

2. When stove pipes in any buildings lead through partitions, floors or ceilings the same shall be encased in solid brick and mortar, concrete or clay so that at every point there shall be at least four clear inches between such pipe and any wood work or within metallic cylinders or stove pipe safes giving at least one inch and three-fourths air space all around on every side. C.O., c. 88, s. 2.

Penalty

3. Any person violating the provisions of this Ordinance shall be subject to a fine on summary conviction not exceeding $50 and costs of prosecution. C.O., c. 88, s. 3.

Exceptions

4. The provisions of this Ordinance shall not apply to farms, houses or buildings ten chains distant from one another and shall not apply to municipalities which have provided for the subject matter thereof. C.O., c. 88, s. 4.

TITLE XII.

RELATING TO INTOXICANTS.

CHAPTER 89.

An Ordinance respecting the Sale of Intoxicating Liquors and the Issue of Licenses Therefor.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Liquor License Ordinance.*" C.O., c. 89, s. 1.

INTERPRETATION.

Interpretation

2. In this Ordinance and in the schedules thereto the words and expressions following shall, unless such interpretation be repugnant to the subject or inconsistent with the context, be construed as follows:

Board

1. "Board" means the board of license commissioners;

District

2. "District" means a license district;

Householder

3. "Householder" means—

(*a*) The owner or occupant in his or her own right of a dwelling house who has been actually resident in such house for three months prior to the time of his or her exercising any rights under this Ordinance but does not include or mean boarders or lodgers merely;

(*b*) In cases where more than one family is resident in any particular dwelling the head of each family shall be deemed a householder within the meaning of this Ordinance. Husband and wife living together shall not be considered as separate householders and the husband shall have the right to act in this respect unless the husband shall have been absent from the municipality for more than thirty days at the time the recommendation, protest or petition is being signed, in which case the wife shall be deemed the householder;

Dwelling house

4. "Dwelling house" means an actual separate dwelling house which is either dwelt in or is only temporarily vacant. 1909, c. 5, s. 3, ss. 1.

Justice

5. "Justice" means a justice of the peace;

Hotel license

6. "Hotel license" means and includes every license granted for the sale by retail of fermented, spirituous or other liquors which may be consumed on the premises on which the same is sold whether hotel premises or not;

Licensee

7. "Licensee" means a person holding a license under this Ordinance;

8. "Person" includes every member of a firm and the servant, office holder, agent of a company, association or body of persons whether incorporated or not; Person

9. "Licensed premises" means the premises in respect of which a license under this Ordinance has been granted and is in force and extends to every room, closet, cellar, yard, stable, outhouse, shed or any other place whatsoever of, belonging or in any manner appertaining to such house or place; Licensed premises

10. "Liquor" or "liquors" means and comprehends all spirituous and malt liquors and all combinations of liquors and drinkable liquors which are intoxicating; also any compound or preparation the dissolving or mixing of which with liquids or fluids produces any intoxicating liquor. 1913, (2nd session), c. 17, s. 1. Liquor Liquors

Any liquor which contains more than two and a half per cent. ($2\frac{1}{2}$ per cent.) of proof spirits shall be conclusively deemed to be intoxicating; Liquor containing $2\frac{1}{2}$ per cent. proof spirits intoxicating

11. "Public bar" or "bar" means and includes any room, passage or lobby in any licensed premises into which the public may enter and purchase liquors; Public bar Bar

12. "Inspector" means a license inspector appointed by the Lieutenant Governor in Council under the provisions of this Ordinance; Inspector

13. "Sale by retail" means the sale of a quantity, not to exceed half a gallon at any one time, of ale, beer or porter or one quart of wine or spirits; Sale by retail

14. "Electors" means those who are entitled to vote at an election for a member of the Legislative Assembly of the Territories; Electors

15. "Judge" means a judge of the Supreme Court usually exercising jurisdiction in the judicial district in which the license district (or the greater portion thereof) is situate. C.O., c. 89, s. 2; 1900, c. 32, s. 2; 1907, c. 9, s. 2 and 3. Judge

EXCEPTIONS FROM APPLICATION OF ORDINANCE.

3. Nothing in this Ordinance shall apply— Application of Ordinance limited

1. (*Repealed*) 1913 (2nd Session), c. 17, s. 2.

2. To any person who holds a license as autioneer selling liquor at public auction: Auctioneer selling liquor forming part of insolvent debtor's estate

Provided that the liquor being sold forms part of an insolvent debtor's estate and is named in the inventory thereof and offered for sale under instructions from the creditor or creditors of such estate or his or their assignee, agent or trustee and that the stock of such liquors is not broken for the purpose of such sale and is not removed from the place in which such liquors were originally exposed under license;

3. To the sale of beer in any canteen of the North-West Mounted Police established under proper authority; such sale to be restricted to members of the North-West Mounted Police; Sale of beer in N.W.M.P. canteens

4. To the sale of any liquor by virtue of an execution or other judicial process; Judicial sales

5. To a *bona fide* sale by a licensee of his stock of liquors in conjunction with the sale and transfer of his interest under the license;

6. To a *bona fide* sale to a licensee or licensees by a person who has been the holder of a license at any time within sixty days after his license has ceased to be in force;

7. To a *bona fide* sale to a licensee by the personal representative of a deceased licensee at any time within sixty days after such decease;

8. To the mess of any portion of the militia of Canada established under proper authority such sale to be restricted to members of the militia of Canada. C.O., c. 89, s. 3; 1901, c. 33, s. 1; 1904, c. 14, s. 1.

LICENSE DISTRICTS.

License districts

4. The Lieutenant Governor in Council shall establish districts for the purposes of this Ordinance to be called license districts and may from time to time alter and redefine the same; and the license districts when so established and when altered shall be announced by proclamation in *The North-West Territories Gazette*. C.O., c. 89, s. 4.

LICENSE COMMISSIONERS.

One board of license Commissioners for Alberta

5. There shall be one board of license commissioners for Alberta, to be composed of three persons to be appointed from time to time by the Lieutenant Governor in Council, and each of them shall cease to hold office on the thirty-first day of December in each year, subject, however, to removal at any time before that date at the pleasure of the Lieutenant Governor in Council; but such persons or any of them may be reappointed.

(2) The said board shall upon appointment elect one of their number to act as chairman and one to act as secretary.

(3) Every person so appointed shall forthwith after his appointment and before performing any of the duties of his office take and subscribe the following oath or affirmation:

Oath of of office

"I, (*name in full*) do hereby solemnly swear (*or* affirm) that I will faithfully perform my duty as license commissioner for the Province of Alberta."

The said oath or affirmation shall be forthwith sent by the respective commissioners to the Attorney General.

(4) The remuneration of the commissioners shall be fixed by the Lieutenant Governor in Council and shall be paid out of the general revenue of the province, and the Attorney General shall have power to make regulations governing the duties, sittings, and procedure of the board not inconsistent with *The Liquor License Ordinance* and amendments thereto. 1909, c. 5, s. 2.

NOTE: This amendment was to come in force upon proclamation. (*See* 1909, c. 5, s. 19. The same was proclaimed 29th September, 1909, *see Alberta Gazette*, 1909, Vol. 5, No. 18, page 3.)

LICENSE INSPECTORS.

Officers may be appointed to enforce law as to unlicensed houses

6. The Lieutenant Governor in Council may appoint one or more provincial officers, whose duty it shall be, in addition to any other duties imposed by this Ordinance upon inspectors, to enforce the provisions of this Ordinance for the prevention of traffic in liquor by unlicensed houses.

(2) One of such officers may be designated "chief license inspector" and it shall be his duty: Chief license inspector

(*a*) To make a personal inspection of each license district;

(*b*) To hold investigations into the conduct of inspectors of licenses and license commissioners when required so to do by the Attorney General;

(*c*) To ascertain that such inspectors are performing the duties of their office faithfully and efficiently;

(*d*) To report upon any such matters as expeditiously as may be to the Attorney General for his information and decision;

(*e*) Where such chief license inspector inquires or causes an inquiry to be made into the conduct of any inspector of licenses or license commissioner or into the manner in which the law is enforced by an inspector of licenses, it shall be lawful for him to require that the evidence shall be given under oath, which oath he is hereby empowered to administer. He shall also have power to summon witnesses, and to enforce their attendance and to compel the production of books and documents in the same manner and to the same extent as a justice of the peace.

7. The Lieutenant Governor in Council may appoint one or more license inspectors for any license district or for the Territories and shall fix their salaries or fees and prescribe their duties. No. 7 of 1897, s. 7. Appointment of license inspectors

8. It shall be the duty of every inspector from time to time when directed by the Attorney General to visit and inspect every licensed place within the district and to report forthwith to him every case of infraction of the provisions of this Ordinance; and every inspector shall at once and in comformity with the provisions herein contained prosecute any person so offending and shall suffer no unnecessary delay to intervene between his obtaining the information and the prosecution. C.O., c. 89, s. 8; 1900, c. 32, s. 1. Inspectors to visit licensed places when directed

9. (*Repealed*) 1900, c. 32, s. 4.

10. In case any person gives to the inspector information justifying the prosecution of any person for offences against this Ordinance it shall be the duty of the inspector to lay the information in his own name and prosecute. C.O., c. 89, s. 10. Inspector to lay information and prosecute

11. (Amended 1911-12, c. 8, s. 1.) (*Repealed*) 1913, (2nd session), c. 17, s. 3.

LICENSES.

12. Licenses shall be either, Form of license

(*a*) "Hotel" or

(*b*) "Wholesale."

(2) Licenses shall be signed by the Attorney General and shall be in Form F appended hereto.

(3) Under a wholesale license the licensee may sell and dispose of liquors in the warehouse, store, shop or place defined in the license in quantities of not less than one half gallon in each cask Wholesale license

or vessel or of not less than one reputed quart of draught liquor and in case of such selling by wholesale as in respect of bottled ale, beer, porter, wine or other fermented or spirituous liquors each such sale shall be in quantities not less than one reputed quart bottle or two reputed pint bottles and liquors thus sold shall not be consumed in or upon the house and premises in respect of which the license is granted:

Provided that in case of any conviction against a wholesale licensee for allowing liquors to be consumed in or upon such house or premises such licensee shall absolutely forfeit his license or licenses and no new license shall thereafter be granted to such licensee in the license district in which such licensed premises are situate:

Wholesale license limited

Provided further that in incorporated cities and towns no business other than a liquor business and the sale of cigars and tobaccos shall be carried on upon the premises covered by such wholesale license. C.O., c. 89, s. 12; 1911-12, c. 8, s. 2.

License may issue in name of copartnership

13. Licenses may be issued in the name of a copartnership when two or more persons are carrying on business in the same name but a separate license shall be required in every separate place of business of such firm.

Dissolution of partnership

(2) A license granted to any firm or partnership shall without any formality enure to the benefit of the remaining partner or partners in the event of the withdrawal or removal of any of them by dissolution or any other determination of the partnership.

Each member of firm liable

(3) Every member of a licensed partnership shall be liable to the penalties imposed against licensees for breach of the provisions of this Ordinance.

Effect of conviction against member of firm

(4) For the purposes of the consequences of any conviction under this Ordiance a conviction against any person who is a member of a licensed partnership whether made while he is a member of such partnership or prior thereto shall have the same effect as if such conviction had been against each member of the said partnership.

No license to member of firm

(5) No license shall be granted in the name of one member only of a partnership and any license so granted shall be void. C.O., c. 89, s. 13; 1903 (1st Session), c. 26, s. 1.

Incorporated company may become licensee

14. Any incorporated company may become a licensee or licensees in any district under the provisions of this Ordinance and in such cases all acts required under the provisions of this Ordinance to be done by any person as licensee whether prior to or after the granting of a license may be done in the name of the company by the officer or agent of the said company in charge of the particular premises for which the license is to be or shall have been granted, who personally shall be liable as licensee as well as said company in respect of the offences and penalties under this Ordinance.

Hotel licenses limited

15. The number of hotel licenses to be granted in cities, towns, incorporated villages and other places as hereinafter mentioned shall not in any one year exceed: In cities, towns and incorporated villages and in other places in which licenses may be granted, one license for the first 500 population or fraction thereof; a second license for the next 500 population or fraction thereof up to 1,000; a third license for a population of at least

1,750; a fourth license for a population of at least 3,000, and one license for each additional 1,000 of population thereafter:

Provided always that nothing herein contained shall be deemed to cancel or prevent the renewal or transfer of any license granted and issued prior to the passing of this Act, but nevertheless in any locality where the number of licenses heretofore granted or issued exceeds the number limited by this Act, no new licenses shall be granted until the population of such locality shall comply with the provisions of this Act. Proviso

(2) No wholesale licenses shall be granted in cities, towns and incorporated villages and in other places in which licenses may be granted unless and until the population of such city, town, incorporated village or place exceeds 1,000: Wholesale licenses not to be issued unless population exceeds 1,000

Provided always that nothing herein contained shall be deemed to cancel or prevent the renewal or transfer of any license granted and issued prior to the passing of this Act. 1903 (1st Session), c. 26, s. 2; 1907, c. 9, s. 6.

(3) "Population" as used in this section, means the *bona fide* residents of the place named in the application on the date of this application as well as the dates first set for the hearing of such application before the board of license commissioners.

16. (*Repealed*) 1907, c. 9, s. 7.

17. Any railway company may obtain a special license from the Attorney General to sell wine, ale, beer and spirits on any dining car attached to a train upon the line of their railway and shall pay therefor the sum of $100 to the Territorial Treasurer; such licenses shall expire on the thirtieth day of June in each year. Special license to railway company

(2) The general provisions of this Ordinance as to applications for licenses and the proceedings thereon shall not apply in the case of applications for licenses under this or the preceding section. C.O., c. 89, s. 17; 1900, c. 32, s. 1.

17*a*. The Attorney General may grant licenses to commercial travellers and agents empowering them to take orders in the Territories for liquor to be imported into the Territories to fill such orders. Commercial traveller's license

(2) Such license shall not empower the person to whom it is granted to keep a stock of liquor in the Territories but merely to take orders for liquor to be sent into the Territories to fill such specific orders.

(3) Such license may be transferred by the Attorney General upon payment of the fee of $10.

(4) Any person who solicits or takes any order in the Territories for liquor to be supplied from outside the Territories without having obtained the license in this section mentioned shall be liable to a penalty prescribed by section 85 of this Ordinance. 1901, c. 33, s. 19.

17*b*. The license granted under the next preceding section shall authorize the sale of liquor only in quantities of not less than five gallons in each cask or vessel at any one time or where sale is in respect of bottled liquor in quantities of not less than one dozen bottles of at least three half pints each or two dozen bottles of at least three-fourths of one pint each at any one time. Quantities that may be sold

(2) The provisions of this Ordinance as to applications for licenses and the proceedings thereunder shall not apply to licenses granted under either of the two next preceding sections.

(3) Such license shall expire on the thirtieth day of June in each year and the fee payable therefor shall be $250 if it only empowers the holder to take orders from wholesalers and $1,500 if it empowers him to take orders from both wholesalers and retailers. 1901, c. 33, s. 20; 1903 (1st Session), c. 26, s. 16; 1914, c. 21, s. 3.

(4) No action shall be maintained or enforced in Alberta for the price of liquor sold under a contract for the importation of liquor into the province, unless the vendor has in his employ at the time of the sale a traveller or agent holding a license under the provisions of this Act, and no claim for such price shall be allowed by way of offset or counterclaim, nor shall it have any legal validity whatever. All specialties, bills, notes or accounts stated, given or made in whole or in part for or to secure any such claim or charge shall be void. 1914, c. 21, s. 1.

18. (*Repealed*) 1907, c. 9, s. 8.

License to be a license only to person named therein

19. Subject to the provisions of this Ordinance as to removal and the transfer of licenses every license for the sale of liquor shall be held to be a license only to the person named therein and for the premises therein mentioned and shall remain valid only as long as such person continues to be the occupant of the said premises and the true owner of the business there carried on. C.O., c. 89, s. 19.

Disqualified persons ineligible

20. No license shall be granted to any person declared in pursuance of this Ordinance to be a disqualified person during the continuance of such disqualification; any license issued to a person so disqualified shall be void. C.O., c. 89, s. 20.

Commissioner or inspector cannot obtain license

21. No license shall be granted under the provisions of this Ordinance to or for the benefit of any person who is a license commissioner or license inspector and any license so issued shall be void. C.O., c. 89, s. 21.

Premises owned by commissioner or inspector not licensed

22. No license shall be issued under the provisions of this Ordinance for premises within any district of which a member of the board or the inspector of such district is the owner. C.O., c. 89, s. 22.

No license to married woman

23. No license shall be granted to any married woman who is not a licensee at the time of the coming into force of this Ordinance. 1903 (1st Session), c. 26, s. 3.

New licenses not to be granted for premises within 200 yards of church or school

23*a*. No license shall be granted under the provisions of this Ordinance for the sale of liquor upon any premises for which a license has not hitherto been granted under the provisions of this Ordinance, within 200 yards of a building occupied exclusively as a church, as a school, university or college, to be measured from and to the main entrance along the street or streets, road or roads, or across the same at right angles, as the case may be. 1907, c. 9, s. 9.

ACCOMMODATION REQUIRED IN LICENSED HOTELS.

24. Every licensed hotel shall contain in addition to what is required for the use of the licensee, his family and servants, the number of bedrooms following, that is to say: Accommodation required in hotels

(*a*) In cities at least forty-five;

(*b*) In towns at least thirty;

(*c*) In villages at least twenty;

and in every case a suitable complement of bedding and furniture.

(1*a*) The foregoing subsection shall not apply in the case of hotels for which a license is in force or recommended by the board of license commissioners on the 15th day of March, 1907, until the first day of May, 1915, the provision of the said repealed first subsection of the said section 24 remaining in force in respect of such hotels until the said first day of May, 1915:

Provided, however, that the said foregoing subsection may be brought into force by proclamation before the said first day of May, 1915, in any license district, or in any or all cities or towns and in which case the said subsection shall be in force in any such district or districts, on, from and after the day named in the proclamation. 1908, c. 20, s. 8 (4); 1911-12, c. 8, s. 3 (4); 1913, c. 17, s. 6.

(2) Every licensed hotel shall have two public sitting rooms separate and distinct from the bar room.

(3) (*Repealed*), 1907, c. 9, s. 11.

(4) Every licensed hotel shall be provided with suitable and sufficient appointments and appliances for serving meals daily to travellers.

(5) Every licensed hotel shall be provided with suitable privies to be approved by the inspector which shall at all times be kept clean and ventilated.

(6) The premises, furniture, bedding and other appointments of every licensed hotel shall at all times be kept clean.

(7) The nonobservance of any of the provisions of this section shall be deemed to be a violation of the licensee of such provisions.

(8) Every licensed hotel shall be provided with suitable fire escapes and fire alarm signals to be approved by the inspector and in places having a fire brigade by the chief of such brigade and the Attorney General may make such regulations as he may deem necessary for the protection and safety of guests. 1911-12, c. 8, s. 3 (2).

(9) Every hotel licensee, shall, except in cities and towns provide stabling for at least 16 horses in addition to any horses of his own; but nevertheless the board may dispense with this requirement in any case in which it is satisfied that there is otherwise sufficient accommodation in this respect in the neighbourhood. C.O., c. 89, s. 24; 1903 (1st Session) c. 26, s. 4; 1904, c. 14, s. 2; 1907, c. 9, ss. 10, 12 and 39. Stabling horses to be provided

APPLICATIONS FOR LICENSES.

25. Every license shall be issued upon the recommendation of the board except as herein provided. C.O., c. 89, s. 25. Licenses, how issued

26. The board shall sit during the month of May in each year at such place and at such date as may be arranged and notified to them by the Attorney General to receive and dispose of appli- Meetings of board

cations for license and to hear and decide protests. C.O., c. 89, s. 26; 1900, c. 32, s. 1.

Board may adjourn meeting

27. At such meeting the board may adjourn the hearing of any application or any protest to any other place and time if they see fit and as far as possible protests shall be tried in the locality in which application for license is made.

(2) The board may be called together at any time by the Attorney General and the board may meet at any time of their own motion.

Board may adjourn meeting if quorum not present

(3) If from any cause a majority of the board fails to be present on the day fixed for the meeting or at any adjournment of a meeting the said meeting or adjourned meeting shall stand adjourned from day to day until a majority shall be present to hold such meeting. C.O., c. 89, s. 27; 1900, c. 32, s. 7.

Application, etc., to be transmitted to Attorney General

28. Every application for license shall be by petition (in form A appended hereto) and such application and also recommendation (in form B), and the affidavits (in forms C and D) shall be sent to the Attorney General together with the sum of $25 so that it may reach him on or before the first day of April, upon receipt whereof it shall be the duty of the Attorney General to sign a receipt in duplicate for such sum af $25 and to send one duplicate thereof to the applicant and to retain the other. 1911-12, c. 8, s. 4; 1914, c. 21, s. 1.

(2) The recommendation (form B) shall not be required in the case of any application for a license in an incorporated city or town. C.O., c. 89, s. 28; 1900, c. 32, s. 1.

Advertisement of application

29. As soon as possible after the first day of April the Attorney General shall advertise by one insertion in a newspaper in each locality for which applications (accompanied by said receipt and recommendation where required) have been received by him or as near such locality as possible, a list of all such applications received for such locality showing the name of each applicant, description of license applied for and the place described with sufficient certainty together with a notice of the time and place of the meeting of the board to be held to consider such application; at least twenty-four days shall intervene between the publication of the advertisement and the date of such meeting; and a notice containing similar information shall be fixed to the outer door of the building where the board is to sit, and be sent to the postmaster nearest to the proposed license premises to be posted up in the post office; and the Attorney General shall also send to an inspector a list of all applications made in his district; upon receiving such list such inspector shall inspect the premises of each applicant named and make the report provided for in this Ordinance. Such inspector shall produce such reports at the then next meeting of the board in the district. C.O., c. 89, s. 29; 1900, c. 32, s. 1.

Application, etc., to be produced at meeting of board

30. The Attorney General shall cause all papers required by this Act relating to each application, together with a statement showing the convictions against any applicant under this Ordinance, to be produced at the meeting of the board.

(2) All such papers referring to applications or protests, excepting the inspector's report, shall at all times be open to the inspection of the public. 1911-12, c. 8, s. 5.

31. After the meeting of the board the inspector shall return the said papers to the Attorney General with a certificate signed by at least the majority of the commissioners present at the meeting showing whether the license is recommended or not and if not recommended stating the reasons. C.O., c. 89, s. 31; 1900, c. 32, s. 1. Inspector to return papers to Attorney General with board's certificate

32. Upon receipt of the papers and certificates the Attorney General shall notify each successful applicant that he is required to send to the Provincial Treasurer on or before the fifteenth day of June— Attorney General to notify successful applicant

The amount of the Territorial license fee together with ten per-cent. thereof in addition as a prosecution fund. 1914, c. 21, s. 1. License fee and prosecution fund

(2) Upon receipt of said moneys and certificate (where required) the Territorial Treasurer shall sign a receipt in duplicate for the same, one of which he shall transmit to the applicant and the other along with the certificate (where required) to the Attorney General who shall thereupon send to such applicant a license in form F appended hereto. Unless the said license be granted for a limited period, it shall expire at midnight on the thirtieth day of June following the date thereof, unless sooner cancelled under the provisions of this Ordinance. C.O., c. 89, s. 32; 1901, c. 32, s. 1; 1907, c. 9, s. 13. License to be sent

33. Any person desiring to obtain a license at any other time than as above provided may send to the Provincial Treasurer his application and $200; the Attorney General upon receipt of the application and the Provincial Treasurer's receipt shall arrange for the advertising of the application, the inspection of the premises, and the calling together of the board at as early a day as possible to deal with the application; provided that no license shall be granted to any person under the provisions of this section whose application for a license under section 28 hereof has been rejected. 1909, c. 5, s. 3, ss. 4; 1914, c. 21, s. 1. Application at other times

NOTE—This amendment was to come into operation on proclamation. The same was proclaimed on 29th September, 1909. *See Alberta Gazette*, Vol. 5, No. 18, page 3.

34. Any existing licensee may apply for the renewal of his license for the same premises for another term in which case the recommendation in form B shall not be required unless since obtaining such recommendation he has been convicted of an offence under this Ordinance. C.O., c. 89, s. 34. Application for renewal of license for same premises

35. All license moneys and fees payable under this Ordinance shall be paid to the Provincial Treasurer and shall go to the general revenue fund.

(2) (*Repealed*) 1909, c. 5, s. 3 (5).

NOTE—Subsection 5 of section 3 of chapter 5 of the Statutes of 1909 is declared to be in force, on, from and after the 1st day of July, 1909; and it is further declared that subsection 2 of section 35 which was repealed by said subsection 5 of section 3 of chapter 5 of the Statutes of 1909 was in force up to the said first day of July, 1909. (*See* 1910 (2nd Session), c. 2, s. 8 (1).)

36. Any seven or more out of the twenty householders residing nearest to the premises for which a license is required may by Protests

petition in form G appended to this Ordinance object to the granting of such license and the objections which may be taken to the granting of a license may be one or more of the following:

Bad fame

(*a*) That the applicant is of bad fame and character or of drunken habits or has previously forfeited license; or

Premises out of repair

(*b*) That the premises in question are out of repair or have not the accommodation required by law or reasonable accommodation if the premises be not subject to the said requirements; or

Not required

(*c*) That the licensing thereof is not required in the neighbourhood or that the premises are in the immediate vicinity of a place of public worship, hospital or school or that the quiet of the place in which such premises are situate will be disturbed if a license be granted or for other valid reasons which may be shown.

Petition How dealt with

(2) The petition, together with the sum of $10, shall be sent to the Attorney General in time for its receipt by him not less than ten days before the day appointed for the sitting of the board at which such application will be considered. The Attorney General shall acknowledge the receipt of same and endorse on the back of the petition the date upon which he received the same and the said sum of $10 and said petition shall be forwarded to the chief license inspector for production at such sittings of the board. 1911-12, c. 8, s. 6.

(3) The said sum of $10 shall be paid into the general revenue fund of the province. 1914, c. 21, s. 1.

Adjourning to hear protest

(4) At any meeting of the board at which an adjournment in order to consider any protest is asked by or on behalf of any person protesting the board before fixing the day and place for the hearing of such protest shall require the party asking for such adjournment to deposit with the board a sum of money sufficient to cover the costs of such adjourned hearing and unless such sum is forthwith deposited may proceed to hear and determine such application and any sum deposited shall forthwith be forwarded by the chairman of the board to the Attorney General and in the event of such protest being unsuccessful the cost of such adjourned hearing shall be deducted from the amount deposited and the balance, if any, returned to the person making the deposit.

Written decision

(5) The board shall give a written decision stating which if any of the objections stated in the protest are sustained or not as the case may be.

Petition to be signed within 60 days prior to receipt

(6) Such petition must be signed within the period of sixty days immediately prior to the day it is so received by the Attorney General and the justice or commissioner before whom the same is signed shall certify the date upon which each person signs such petition. C.O., c. 89, s. 36; 1900, c. 32, s. 1; 1904, c. 14, s. 3; 1911-12, c. 8, s. 6.

Where recommendation required

37. A license shall not be granted to any person to sell intoxicating liquors outside of incorporated cities or towns who has not first obtained the recommendation in writing in form B.

Recommendation to be signed within 60 days prior to receipt

(2) Such recommendation must be signed within the period of sixty days immediately prior to the day it is so received by the Attorney General and the justice, notary or commissioner before whom the same is signed shall certify the date upon which each person signs such recommendation. 1911-12, c. 8, s. 7.

(3) No application for a new license shall be entertained in respect of any hotel or wholesale premises not situated in a city or town; or in respect of any hotel license in a village containing less than forty dwelling houses or in any place containing less than forty dwelling houses within an area of not greater than 960 acres. 1907, c. 9, s. 14. Application not to be entertained unless in place containing 40 dwelling houses

(4) (*Repealed*) 1907, c. 9, s. 14.

38. Every recommendation and protest (forms B and G) having reference to the granting of a license shall have in addition to each signature thereon a statement of the approximate distance from the premises to which such petition refers of the residence of each person signing the same. C.O., c. 89, s. 38. Recommendation to state distances

39. Every application for a license and all protests if any against every such application shall be heard and determined by the board in a summary manner. Hearing applications and protests

(2) Every such hearing of an application or protest shall be open to the public and every applicant for a license shall attend personally at such hearing unless hindered by sickness or infirmity and the board may summon and examine on oath such witnesses as they may think necessary and as nearly as may be in the manner directed by any Act now or hereafter in force relating to the duties of justices in relation to summary convictions and orders and any one member of the board may administer such oath. Open to public

(3) Every such hearing may at the discretion of the board be adjourned from time to time. Adjournment

(4) At all hearings under this Ordinance the individuals composing the board shall have the same powers as justices of the peace. C.O., c. 89, s. 39. Powers of board

40. On every application for a license except for a wholesale license the inspector shall report in writing to the board and such report shall contain— Inspector's reports on applications for hotel licenses

1. A description of the house, premises and furniture;

2. If the application be by a person who held a license for the same premises during the preceding year a statement as to the manner in which the house has been conducted during the existence of the previous license;

3. A statement of the number, position and distance from the house in respect of which a license is applied for, of the licensed houses in the neighbourhood;

4. A statement whether the applicant is a fit and proper person to have a license and is known to be of good character and repute;

5. A statement whether the premises sought to be licensed are or are not in his opinion required for public convenience;

6. A statement whether the applicant is or is not the true owner of the business of the hotel proposed to be licensed; and if not the owner of the premises whether he has a lease of such premises for the term of the currency of the license applied for;

7. A statement whether the persons signing the recommendation (form B) are in the opinion of the inspector twenty out of the forty householders nearest to the building in which the business proposed to be licensed is to be carried on. 1901, c. 33, s. 5; 1909, c. 5, s. 6.

8. A statement as to whether all the requirements of *The Liquor License Ordinance* have been complied with. 1909, c. 5, s. 7.

Inspector's report on applications for wholesale licenses

41. In every application for a wholesale license the inspector shall report to the board in writing and such report shall contain—

1. A description of the house and outbuildings with the number of the lot or section they are comprised within;

2. If the applicant be a person who held a license in the same district during the preceding year a statement as to the manner in which the business was conducted during the existence of the previous license;

3. A statement showing—

(*a*) Whether the applicant is or is not a fit and proper person to have a license and is known to be of good character and repute;

(*b*) Whether the business sought to be licensed is or is not in his opinion required for public convenience;

(*c*) Whether the applicant is or is not the true owner of the business proposed to be licensed;

(*d*) Whether the persons signing the recommendation (form B) are in the opinion of the inspector, ten out of the twenty householders nearest to the building in which the business proposed to be licensed is to be carried on. C.O., c. 89, s. 41.

(*e*) Whether all the requirements of *The Liquor License Ordinance* have been complied with. 1909, c. 5, s. 3 (8).

Discretion of board

42. The report of the inspector shall be for the information of the board who shall nevertheless exercise their own discretion on each application. C.O., c. 89, s. 42.

License may be granted for building to be constructed

(2) Notwithstanding anything in this Ordinance contained an applicant who has complied with all the other provisions of this Ordinance may apply for and be granted a recommendation for a license for a building either in course of construction or to be constructed upon filing with the Attorney General plans and specifications of the proposed building for the approval of the Attorney General, but no license shall be granted in respect of such proposed building until the chief license inspector reports that the building has been completed in accordance with the said plans and specifications. 1907, c. 9, s. 15; 1911-12, c. 8, s. 8 (1).

Plans to be filed

Power to cancel recommendation

(3) The Attorney General may, if he considers that the construction of any such building is not being commenced within a reasonable time or that the work thereon is not proceeding with reasonable diligence and in accordance with the plans and specifications, cancel any recommendation so granted. 1911-12, c. 8, s. 8 (2).

HEARING AND DETERMINING APPLICATIONS.

Duties of board

43. The board having ascertained that the requirements of this Ordinance as to the application and the report of the inspector have been complied with, but not otherwise, shall hear the application.

(2) The board shall hear and determine all protests and objections which may be made against applications on evidence as shall seem to them sufficient. Hearing and determining protests

(3) Any person who is qualified to protest and has signed a formal protest in form G hereto appended against the granting of a license may be heard in relation thereto in person or by attorney or agent. Persons signing protest may be heard

(4) The council of any municipality may authorize any person to appear in a similar manner on behalf of the ratepayers of such municipality as to the granting of a license and such person so authorized shall have a right to be heard before the board against the granting of such license. Municipal council may be represented

(5) No objection in respect of the character of any applicant shall be entertained unless three days' written notice has been given to the applicant and no protest need be noticed if not made in accordance with this Ordinance. Notice of objections to character

(6) No objection from an inspector shall be entertained unless the nature of the objection shall have been stated in the report furnished to the board. Objections from inspector to be stated in report

(7) Notwithstanding anything in this Ordinance contained the board may of its own motion whether a protest has been filed or not take notice of any matter or thing which in their opinion would be an objection to the granting of a license. In any such case the board shall notify the applicant and shall adjourn the hearing of the application if requested by him for any period not exceeding fourteen days and not less than seven days or any time fixed with the consent of the applicant in order that any person affected by the objection may have an opportunity of answering the same. Board may take notice of any objection

Applicant to be notified

(8) Where the applicant for a hotel license resides in a remote part of the district or when for any other reason the board sees fit they may dispense with the report of the inspector and act upon such information as may satisfy them in the premises. C.O., c. 89, s. 43. Inspector's report may be dispensed with

44. The decision of the board when once announced by the chairman shall not be questioned or reconsidered: provided nevertheless that in cases where the person or persons affected by such decision petition the board and allege facts and grounds for their consideration not formerly before them or in cases in which the board have not been unanimous the board may by resolution in which all the members concur decide to rehear the case. When a rehearing is allowed notice thereof shall be given by the inspector to the applicant and to at least one of the petitioners or his agent. C.O., c. 89, s. 44. Decision of board final

Provision for rehearing

45. If an applicant for a license has at any time been refused a license on the ground that he is not a fit person to hold a license no application by such applicant if opposed shall be entertained by any board within a period of two years of the last of such refusals. C.O., c. 89, s. 45. Applicant refused on ground that he is not fit person

LICENSE FEES.

46. Every person to whom a license to sell intoxicating liquor may hereafter be granted, shall before receiving such license pay to the Attorney General the following fees, that is to say:

(*a*) For each hotel license in cities having a population of 10,000 or over..... $ 800.00
(*b*) For each hotel license in other places..... 400.00
(*c*) For each wholesale license in cities having a population of 10,000 or over..... 1,200.00
(*d*) For each wholesale license in places of less than 10,000 population..... 800.00
1914, c. 21, s. 1.

2. Every person who manufactures spirituous, fermented or other liquors, and to whom a license may be granted under section 85*a* hereof, shall before receiving such license pay to the Attorney General yearly the following fees, that is to say:

(*a*) By any person manufacturing yearly over 1,000,000 gallons..... $5,000.00
(*b*) By any person manufacturing yearly over 500,000 gallons and less than 1,000,000 gallons..... 3,500.00
(*c*) By any person manufacturing yearly over 250,000 gallons and less than 500,000 gallons..... 2,000.00
(*d*) By any person manufacturing yearly less than 250,000 gallons..... 1,000.00

3. Every club incorporated by special Act or Ordinance before permission to keep liquors as provided in section 81 hereof is granted, shall pay to the Attorney General the following fees yearly:

(*a*) In cities having a population of 20,000 or over, each club..... 1,500.00
(*b*) In cities having a population of not less than 10,000 and not more than 20,000, each club 600.00
(*c*) In other places..... 300.00
(*d*) Golf and country clubs..... 250.00
1914, c. 21, s. 1.

4. In all cases where licenses or permits are granted for a portion of the year only, the amount payable to the Attorney General shall be a proportionate part only of the amount required for one year. 1913 (2nd Session), c. 17, s. 7.

5. Except when they are payable with a first application under the provisions of section 32 of this Act all license fees under this section shall be payable half-yearly in advance on the fifteenth days of June and December in every year, and every license shall be sent to the Attorney General with the second instalment of the said fees so that the receipt of the said instalment may be endorsed upon it, and every license which is not so forwarded by the said date shall be cancelled. 1914, c. 21, s. 1.

46*a*. There shall be no refund or rebate of any fees or deposits paid under this Act, except under the conditions hereinafter prescribed in section 49. 1914, c. 21, s. 1.

SECURITY.

47. Before any license is issued the person applying for the same shall enter into a bond to His Majesty in the sum of $500 with two good and sufficient sureties to be approved by the board, justifying by affidavit, in the sum of $250 each, conditioned for the payment of all fines and penalties which such person may be condemned to pay in respect of any offence against this Ordinance

to be recovered at the suit of the Attorney General by civil process in the ordinary way and such bond shall be in the words or to the effect of form E appended to this Ordinance. C.O., c. 89, s. 47; 1901, c. 33, s. 6.

Guarantee Co. bond in lieu of other security

(*a*) In lieu of the security to be given as provided in subsection 1 hereof the Lieutenant Governor in Council may direct that an agreement may be entered into between His Majesty and any Guarantee Company or other company authorized to enter into contracts of suretyship or to issue policies for guaranteeing the good behaviour of persons required to furnish such security, by which the company may undertake in consideration of a fixed annual payment or otherwise, to indemnify His Majesty against the nonpayment of any fines or penalties or costs which the person to whom a license is granted or to whom any license is transferred may be ordered to pay during the term for which the license is granted or during which such person is the holder of a license to the amount set out in the said agreement or in any schedule attached thereto;

Agreement to cover all licenses

(*b*) It shall not be necessary that a separate agreement shall be entered into for each applicant for a license or a transfer of a license, but the agreement with such company may provide that upon notice being given by the Attorney General, to the company, that the company is required to furnish security for any such applicant or transferee and upon the acknowledgment in writing of receipt of such notice by the company, the company shall become liable to the amount set out in such notice;

Fees to be paid by applicants

(*c*) The amount chargeable to each applicant for such guarantee shall be stated in the agreement and shall be paid by the applicant to the Provincial Treasurer before the issue of the license. 1910 (2nd Session), c. 2, s. 8 (2).

CANCELLATION OF LICENSES.

Cancellation of licenses

48. The board shall at any time cancel any license upon proof that the conditions necessary to the granting of such license do not exist and also in case it is shown that the licensee is not keeping his premises in accordance with the provisions of this Ordinance and any rules and regulations made thereunder. C.O., c. 89, s. 48.

Cancellation of licenses by Attorney General

49. The Attorney General may subject to the approval of the Lieutenant Governor in Council at any time cancel a license and allow a rebate to such licensee of a portion of the moneys paid for license to the Territorial Treasurer.

(2) A license may be cancelled under this section on account of the destruction of the premises or for any reason satisfactory to such Attorney General.

Rebate

(3) In case such rebate is allowed it shall be the duty of the Territorial Treasurer to refund to such licensee such amounts so allowed. C.O., c. 89, s. 49; 1900, c. 32, s. 1; 1907, c. 9, s. 16; 1914, c. 21, s. 1.

TRANSFER OF LICENSES.

Transfer of licenses

50. The rights and liabilities of a licensee shall enure to the legal representative of a deceased or insolvent licensee and to the transferee or assignee of the business of a licensee for a period of sixty days after the death or transfer; and during such period such legal representative or transferee shall for the purposes of this Ordinance be considered a licensee. 1913 (2nd Session), c. 17, s. 8.

(2) At the expiration of the said period of sixty days the license shall *ipso facto* become forfeited and be absolutely null and void unless such legal representative or transferee shall prior thereto have obtained the written consent of the Attorney General to the continuance of the business or to the transfer of the license:

Provided that the said period of sixty days may be extended, for good cause shown, by the Attorney General for a further period not exceeding thirty days.

(3) Upon such written consent being given the legal representative or transferee as the case may be shall have the same rights and be subject to the same liabilities as if the license had been originally granted to him and shall for the purpose of this Ordinance be deemed a licensee. 1901, c. 33, s. 7.

Licensee legally evicted

51. If a licensee has been legally evicted from any licensed premises the license for such premises shall be *ipso facto* suspended but the Attorney General within thirty days from the said eviction may upon the application of the owner or landlord and upon proof being made to his satisfaction of the legality of such eviction grant a special license for the said premises to the said owner or landlord or any proposed new tenant for a period of not more than sixty days; at any time during the last mentioned period such owner, landlord or any proposed new tenant may apply for a license for the said premises for the unexpired portion of the licensed year, and all the provisions of this Ordinance in respect to the granting of licenses shall apply to such application. 1911-12, c. 8, s. 10.

Balance of term

52. The board may by order authorize any person they may think entitled to the benefit of any license to carry on the business in the licensed premises for the remainder of the term for which the license was granted in the same manner as if such license had been formally transferred to such person (provided proof of value received be given as provided in the next preceding section) in the following cases:

Proviso

Desertion of premises

1. Whenever any person to whom a license has been granted deserts the licensed premises or refuses or neglects to transfer the license when justly required so to do; or

Vacancy

2. If during the currency of any such license the holder thereof ceases to occupy the premises in respect whereof the license is held or his tenancy of such premises is determined by effluxion of time or by notice to quit or by any other process whatsoever. C.O., c. 89, s. 52.

After disqualification treating matter as in case of transfer

53. Where any licensed person is convicted of any offence and in consequence either becomes personally disqualified or has his license forfeited the board upon application by or on behalf of the owner of the premises in respect of which the license was granted (where the owner is not the occupier) and upon being satisfied

that such owner was not privy nor a consenting party to the act of his tenant and that he has legal power to eject the tenant of such premises, may by order authorize an agent to carry on the business specified in the license relating to such premises until the end of the period for which such license was granted, in the same manner as if such license had been formally transferred to such agent: provided always such owner shall pay as fee for the balance of the term of the license unexpired a proportionate part of the amount required for one year. C.O., c. 89, s. 53. Proviso

54. In case of the marriage of any woman being a licensee the license held by her shall confer on her husband the same privileges and shall impose on him the same duties, obligations and liabilities as if such license had been granted to him originally: Marriage of female licensee

Provided that the Attorney General on application of the husband of any such licensee, if satisfied that no objection can be made to the character of the husband and that he has not forfeited a license within the next preceding three years, may confirm to him his wife's license for the remainder of the term of the duration thereof, of which confirmation a certificate signed by the Attorney General shall be conclusive evidence. C.O., c. 89, s. 54; 1900, c. 32, ss. 1 and 10. Proviso

REMOVAL OF LICENSEES.

55. The Attorney General may, after order allowing the same by the board, endorse on any hotel or wholesale license, permission to the holder thereof to remove from the house to which his said license applies, to another house to be described in the endorsement to be made by the Attorney General on the said license; provided always that the house to which the licensee proposes to remove has all the accommodation required by law and subject to the requirements in the case of an original application for the same kind of a license: Removal to other premises

Provided that in case of the destruction of any licensed premises the licensee thereof may, subject to the approval of the Attorney General, remove to and occupy any other building and carry on therein the business for which his license has been granted, for a period of not more than ninety days without complying with the provisions of this section. 1911-12, c. 8, s. 11.

(2) Such permission when the approval of the said Attorney General is endorsed on said license shall authorize the holder of the said license to sell liquors in the house mentioned in the endorsement during the unexpired portion of the term for which the said license was granted in the same manner and upon the same terms and conditions as he might do in the premises to which the license originally applied; any bond or security which such holder of a license may have given for any purpose in relation to such license shall apply to the house or place to which removal is authorized; but such permission shall not entitle him to sell at any other than such one place. C.O., c. 89, s. 55; 1900, c. 32, s. 1. Effect of such permission

56. In all cases provided in sections 50 to 55 hereof, both inclusive, of transfer, removal or change in a license, application shall be made in the same manner as if for the original application Application for transfer or removal

for license. The amount of money to be sent with the said application shall be the sum of $50 in the case of an application for permission to move and $250 in the case of an application for a transfer of a license, but should a meeting of the board of license commissioners be found necessary to consider the same a further sum of $50 shall be paid by the applicant to the Provincial Treasurer before such meeting is held. The Attorney General upon receiving the application from the Provincial Treasurer shall proceed as in cases where persons apply at other than the regular time for licenses: 1914, c. 21, s. 1.

Proviso

Provided nevertheless that if within the time limited for protest no protest has been received by the Attorney General and he is satisfied in other respects that the application should be granted it shall not be necessary for the board to hold a meeting or make a recommendation but the application may be granted upon the authority of the Attorney General alone:

Provided further that nothing herein contained shall be deemed to cancel or prevent the transfer, removal or change of a license granted and issued prior to the fifteenth day of March, 1907. 1909, c. 5, s. 3, ss. 9; 1911-12, c. 8, s. 12.

NOTE:—The amendment in 1909 was to come in force on proclamation. The same was proclaimed 29th September, 1909. (Gazette, Vol. 5, No. 18, page 3.) 1913 (2nd Session), c. 17, s. 9.

LICENSES IMPROPERLY OBTAINED.

Powers of judge where license improperly obtained

57. If within sixty days after the recommendation of the board for a license for a building either in course of construction or to be constructed, as provided by section 42 hereof, or within sixty days after the granting of a license for any other building or after the approval of a transfer or removal of the same, any person deposits with the clerk of the Supreme Court for the judicial district in which the licensed premises or proposed licensed premises are situated $10 as security for costs, together with a complaint verified by affidavit, that the said recommendation, license, transfer or removal has been obtained by fraud or in violation of any of the provisions of this Ordinance, on application the judge may, by means of an originating summons, investigate and summarily hear and dispose of the complaint and direct that the license recommended shall not be granted, or he may cancel the license, transfer or removal thereof; or he may dismiss the complaint and award costs in the same way as costs are awarded in proceedings in the Supreme Court.

(2) For the purposes of this section all the provisions of this Ordinance shall be deemed to be mandatory and not directory merely.

(3) An appeal shall lie from a decision of a judge under this section to the Supreme Court of Alberta sitting *en banc*, and such appeal shall be governed by the rules applicable to appeals from judgments in actions in the said court. 1911-12, c. 8, s. 13.

LICENSE REGISTER.

58. The Attorney General shall keep a register to be known as the register of licenses in which shall be recorded—

(*a*) All applications made to the commissioners, with the names of the applicants, the nature of the applications, the premises in respect of which the applications are made, the date on which the applications were heard and the manner in which the same were disposed of, including in case of refusal the cause or causes thereof; License register
(*b*) All licenses granted with the names of the licensees and of the sureties to be furnished;
(*c*) All forfeitures of licenses, disqualification of licensees and convictions against licensees. 1900, c. 32, s. 11.

59. The Attorney General shall report annually to the Legislative Assembly within the first fifteen days of the session thereof furnishing— Report to Assembly

(*a*) A statement of the number and description of licenses and the names of applicants to whom licenses were granted during the year;
(*b*) The names of applicants to whom licenses were not granted;
(*c*) Any other particulars required to be entered in the register of licenses;
(*d*) A list of prosecutions for infractions of this Ordinance and the result of the same;
(*e*) Any general remarks which he may deem necessary concerning the working of the liquor license law. 1900, c. 32, s. 12.

REGULATIONS, PROHIBITIONS AND PENALTIES.

60. All licenses shall be constantly and conspicuously exposed in the warehouses and shops, in the bar rooms of hotels or other places to which the licenses respectively relate, under a penalty of $5 for every day's wilful or negligent omission so to expose them, and in default of payment one week's imprisonment for every day of such omission. C.O., c. 89, s. 60; 1907, c. 9, s. 17. License to be exposed

61. Every person keeping a licensed hotel or wholesale liquor store shall during the continuance in force of such license exhibit and keep exhibited on the outside and over a front door of the licensed premises in large letters the words "licensed to sell spirituous or fermented liquors." Placard over door

(2) Every holder of a hotel license shall also keep exhibited on the outside and over a front door of the bar room and in some conspicuous place in the bar room a notice printed in large letters in the following words: "This bar room is required to be closed from the hour of 7 o'clock p.m. on Saturdays to the hour of 7 o'clock a.m. on the Monday following and on other days of the week from the hour of 10 o'clock p.m. to the hour of 6 o'clock a.m. of the following day." C.O., c. 89, s. 61; 1901, c. 33, s. 8. 1908, c. 20, s. 8.

NOTE:—This amendment came into operation 15th July, 1908. *See* 1908, c. 20, s. 8, ss. 5.

62. No payment of wages to any workman or other person shall be made on any licensed premises except by the licensee to his ordinary servants or employees; any such payment made Payment of wages on licensed premises

in contravention of this section shall not operate to discharge the debt of the employer in respect of such wages to such workman or other person. C.O., c. 89, s. 62.

One bar only

63. Not more than one bar shall be kept in any house or premises licensed under this Ordinance. C.O., c. 89, s. 63.

Hours for sale of liquor

64. In all places where intoxicating liquors are licensed to be sold by retail no sale or other disposal of liquors shall take place therein or on the premises thereof, or out of or from the same to any person or persons whomsoever save as hereinafter provided from or after the hour of seven of the o'clock on Saturday night till seven of the clock on Monday morning thereafter, nor from or after the hour of ten o'clock at night until six o'clock the following morning on the other nights of the week; as respects all places where liquors are licensed to be sold by wholesale no sale or other disposal of liquors shall take place therein or on the premises thereof or from or out of the same to any person or persons whomsoever nor shall the premises in respect of which the license is issued be kept open from or after the hour of seven o'clock on Saturday night until seven o'clock on Monday morning thereafter and from eight o'clock at night until seven o'clock in the morning on the other nights of the week save and except as to both retail and wholesale places in cases where a requisition for medical purposes signed by a licensed medical practitioner or by a licensed druggist or by a justice of the peace is furnished the licensee or his agent; nor shall any liquor whether sold or not be permitted or allowed to be drunk in any such places during the time prohibited by this Ordinance for the sale of the same:

Exception

Proviso

Provided that in licensed hotels liquor may be sold during meals on Sundays to the guests *bona fide* residing or boarding in such houses between the hours of twelve and two and half-past five and half-past seven in the afternoon respectively to be drunk at their meals at the table; but this provision shall not permit the furnishing of liquor at the bar or place where liquor is usually sold in such houses. 1908, c. 20, s. 8, ss. 2.

NOTE:—This amendment came into operation 15th July, 1908. *See* 1908, c. 20, s. 8, s.s. 5. 1911-12, c. 8, s. 14 (1).

No sale during election or during times when bar should be closed

(2) No sale or other disposal of liquor shall take place in any licensed place within the limits of a polling subdivision on any polling day for the election of a member for the Legislative Assembly or any municipal elections or any day in which a vote in accordance with the provisions of this Ordinance is being taken from or after the hour of six o'clock in the morning of the said day until the close of the poll; or at or during any time when by law in force in the Territories or by by-law in force in the municipality wherever such place or places is or are or may be situated the same or the bar room or bar rooms thereof ought to be kept closed.

Persons found in bar rooms in prohibited hours

(3) Every person found in a bar room or a room where liquors are usually sold upon licensed premises at any time between the hours of seven of the clock on Saturday night and seven of the clock on the Monday morning thereafter or between the hours of ten of the clock at night and six of the clock the following morning on the other nights of the week shall be liable on summary conviction thereof to a fine of $10 and costs of prosecution

Penalty

and in default of payment thereof forthwith to imprisonment for ten days. 1908, c. 20, s. 8, ss. 3.

NOTE:—This amendment came into operation 15th July, 1908. *See* 1908, c. 20, s. 8, ss. 5.

Proviso

Provided that nothing in this section shall prevent an hotel keeper, his wife or regular employee from entering such bar room or room for the sole purpose of procuring liquor ordered by guests to be used with their meals on Sunday as allowed by the provisions of this section.

Bar rooms to be closed during prohibited hours

(4) Except as is herein otherwise provided no bar room or room in which liquors are usually sold in a licensed hotel shall be kept open at any time during the hours when the sale or other disposal of liquors is prohibited and the presence in the bar room of any person not a member of the licensee's family or a regular employee of the licensee shall be *prima facie* evidence of the keeping open of such bar room.

Contravention by servant

(5) Any contravention of the provisions of this section by a servant, agent or employee of a licensee shall be presumed to be the act of such licensee.

(6) The sale or other disposal of liquor by a licensee at any *bona fide* banquet or supper being held in the dining room or other room where the meals are usually served in his licensed premises to any person in actual attendance at such banquet or supper at any time before one o'clock a.m. shall not be deemed to be a violation of the provisions of this section provided the said licensee has obtained the written permission of the Attorney General for such sale or other disposal. 1911-12, c. 8, s. 14 (2); 1913 (2nd Session), c. 17, s. 10.

Presence during prohibited hours in wholesale premises

(7) The presence during prohibited hours of any person other than the licensee or a regular employee of the licensee in any premises for which a wholesale license has been issued shall be *prima facie* evidence of the keeping open of such premises by the licensee contrary to this Ordinance. C.O., c. 89, s. 64; 1903, (1st Session), c. 26, ss. 7, 8 and 9; 1907, c. 9, s. 18.

Bar room connection with other portion of licensed premises

65. There shall be no connection between the bar room and other portion of the premises in any licensed hotel by means of windows, wickets, elevators, chutes, openings or any kind of sliding, folding or other kind of doors except doors opening directly out of and on the same side of the bar room into the same public hall or office of the licensed premises and a door or trap leading from behind the bar counter into the cellar. C.O., c. 89, s. 66; 1901, c. 33, s. 9; 1913 (2nd Session), c. 17, s. 11.

No communication between shop or store and wholesale premises

(2) There shall be no communication between any shop or store wherein any goods, wares or merchandise are kept for sale and any wholesale premises licensed under this Ordinance. 1907, c. 9, s. 19.

Full view of interior of licensed premises during prohibited hours

66. Full view of the interior of the bar room in any licensed hotel, or room where liquor is usually sold in any wholesale premises, shall not during prohibited hours be obstructed or partially obstructed by means of screens, shades, blinds, or frosted, ground or colored windows, or in any other manner whatsoever. 1911-12, c. 8, s. 15.

Billiard rooms, etc.

67. No billiard, pool or other tables shall be permitted in the bar room of any licensed hotel; no liquor shall be sold or supplied

in any room in any licensed premises set apart or used for such games.

(2) No musical instrument, dancing or other form of attraction shall be permitted in such bar room. C.O., c. 89, s. 67; 1903 (1st Session), c. 26, s. 10.

68. (*Repealed*) 1907, c. 9, s. 21.

Refusal to supply meals, etc.

69. Every licensed hotel keeper who either personally or through anyone acting on his behalf except for some valid reason refuses to supply lodging, meals, or accommodation to travellers at a reasonable rate shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $20 and in default of payment one month's imprisonment. C.O., c. 89, s. 69.

License may be suspended on account of premises not being kept clean, etc.

(2) Every licensed hotel or part thereof and all closets and outbuildings used in connection therewith shall be kept clean and sanitary, properly ventilated and comfortably heated, and the Attorney General shall have power at any time to suspend the license of any licensed hotel in case he finds that any requirements of this Ordinance or amendments thereto or any regulations made thereunder are not being complied with until all matters of complaint in respect thereof shall have been rectified to his satisfaction; and during the continuance of any such suspension the holder of such suspended license shall have none of the rights of a licensee under this Ordinance. 1907, c. 9, s. 22; 1911-12, c. 8, s. 16.

Penalty for receiving pledge or payment other than money for liquor

70. If any hotel keeper licensed under this Ordinance receives in payment or as a pledge for any liquor supplied in or from his licensed premises anything except current money or the debtor's own cheque on a bank or banker he shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $20; and the person giving anything as a pledge as aforesaid may recover the same or the value thereof in any court of competent jurisdiction notwithstanding such pledge; no hotel keeper shall receive payment in advance for any liquor to be supplied and the amount of any payment so made in advance may be recovered notwithstanding that any liquor may have been supplied subsequently to such payment. C.O., c. 89, s. 70.

Payment for liquor to be supplied

No cheque for wages to be cashed on licensed premises

(2) No time cheque or other evidence of indebtedness given in payment of wages shall be cashed in any licensed premises and any licensee, or his servant, agent or employee, knowingly violating the provisions of this subsection shall be guilty of an offence under this Ordinance. 1907, c. 9, s. 23.

Bartering or receiving pawn for liquor

71. Any licensee who purchases from any other person anything either by way of sale or barter directly or indirectly the consideration for which in whole or in part is any intoxicating liquor or the price thereof or receives from any person any goods in pawn for liquor shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty of $20 and in default of payment forthwith after conviction to imprisonment for any term not exceeding one month and such purchase or pledge shall be absolutely void and the property so sold or pledged may be recovered by the seller or pledgor by civil process:

Provided always that none of the provisions of this section shall apply to transactions between parties holding respectively wholesale and retail licenses under the provisions of this Ordinance. C.O., c. 89, s. 71. Proviso

72. Any licensee who permits gambling, drunkenness, or any violent, quarrelsome, riotous or disorderly conduct to take place on his premises, or sells or delivers any intoxicating liquor to any drunken person, or permits and suffers any drunken person to consume any intoxicating liquor on his premises, or permits or suffers persons of notoriously bad character to assemble or meet on his premises shall (in addition to any other punishment provided by law) be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $25 nor more than $50, and in default of payment forthwith after conviction to not less than one or more than two months' imprisonment. C.O., c. 89, s. 72. Gambling, disorderly conduct, etc., prohibited

73. Every description of gaming, playing at cards, dice or any game of chance, with betting or with a view to determine as to who shall pay for any liquor consumed or to be consumed, is hereby strictly forbidden and prohibited in any licensed premises in the Territories, and any proprietor, owner or licensee of any such place allowing any description of gaming as aforesaid therein, and any person found in such place engaged in any description of gaming as aforesaid, shall be guilty of an offence and on summary conviction thereof be liable to a fine of not less than $20 nor more than $50 for every such offence, and in case of default of payment forthwith after conviction to be imprisoned for a term not less than one month nor more than two months. Games of chance, etc., prohibited

(2) Any proprietor, owner or licensee of any such place allowing any description of gaming as aforesaid thereon and any person in any such place engaged in any description of gaming as aforesaid shall be liable to be arrested on view and brought before any justice and dealt with as above provided. Arrest on view

(3) The existence of dice or other appliances for gambling in any bar room on any licensed premises shall be *prima facie* evidence of an infraction of the provisions of this section. C.O., c. 89, s. 73; 1901, c. 33, s. 10.

74. Any licensee who knowingly harbours or knowingly suffers to remain on his premises any constable during any part of the time for such constable to be on duty (unless for the purpose of keeping or restoring order or in the execution of his duty) or supplies any liquor by way of gift or sale to any constable on duty unless by authority of some superior officer of such constable or bribes or attempts to bribe any constable shall be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $25 nor more than $50 and in default of payment forthwith after conviction to not less than one nor more than two months' imprisonment. C.O., c. 89, s. 74. Penalty for harbouring constable

75. Any licensee may refuse to admit to the premises in respect of which his license is granted any person who is intoxicated and may refuse to admit to and may turn out of the premises any person who is violent or quarrelsome or disorderly and any person whose presence on his premises would subject the Intoxicated persons may be refused admittance or expelled

licensee to a penalty under this Ordinance; and any such person who upon being requested in pursuance of this section by such licensee or his agent or servant or any constable to quit such premises refuses or fails to do so shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $5 and in default of payment forthwith after conviction to one week's imprisonment; and all constables are required on demand of such licensee, his agent or servant to expel or assist in expelling every such person from such premises and may use such force as may be necessary for that purpose. C.O., c. 89, s. 75.

Penalty

Communication between licensed premises and unlicensed premises used for public entertainment prohibited

Penalty for

76. Every person who makes or uses or allows to be made or used any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort or as a refreshment house shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 for every day during which such communication remains open and in default of payment forthwith after conviction for every day as aforesaid to one month's imprisonment. C.O., c. 89, s. 76.

Liquor supplied to minors prohibited

Penalty for

77. Any licensee who allows to be supplied in his licensed premises by purchase or otherwise any description whatever of liquor to any person under the age of twenty-one years, of either sex, shall as well as the person who actually gives or supplies the liquor be guilty of an offence and on summary conviction thereof be liable to pay a penalty of $25 for a first offence and in default of payment forthwith after conviction to one month's imprisonment; and for a second like offence to a penalty of $50 with absolute forfeiture of license and in default of payment forthwith after conviction to two months' imprisonment and absolute forfeiture of license.

Females serving liquor

Proviso

(2) Any hotel licensee who knowingly allows any male under the age of twenty-one years or any female to dispose of any form of intoxicants on the premises for which such license is granted shall be liable to all the penalties provided for in this section provided that this shall not apply to female licensees or the wife of a licensee.

No person under twenty-one years to be permitted to loiter or linger about the bar room

No person under twenty-one years to loiter or linger about bar room

(3) Any licensee who without proper cause suffers or permits any person of either sex, apparently or to the knowledge of such licensee under the age of twenty-one years, unaccompanied by his or her parent or guardian, and not being a resident on the premises of such licensee or a *bona fide* lodger or boarder, without good and sufficient reason, to linger or loiter in or about any bar room or other room on such premises in which liquor is dispensed, shall for every such offence be liable on summary conviction to a penalty of not less than $10 and not exceeding $25 besides costs; and any such person so lingering or loitering as aforesaid without good and sufficient cause and who is not a resident on the premises, or a *bona fide* lodger or boarder, or who is not accompanied by his or her parent or guardian shall also be liable on summary conviction to a penalty of not less than $10 and not more than $25 besides costs. C.O., c. 89, s. 77; 1907, c. 9, s. 24. 1911-12, c. 8, s. 17.

(4) Any person other than a licensee, who gives, sells or otherwise supplies intoxicating liquor to any person under the age of twenty-one years, shall incur the penalties, other than

forfeiture of license, provided in subsection 1 hereof, but nothing in this section shall apply to the supplying of liquor to a person under the age of twenty-one years by the parent, guardian or physician of such person.

(5) Any person under the age of twenty-one years, who through misrepresentation of his or her age, procures liquor in contravention of this section shall incur the penalties, other than forfeiture of license, provided in subsection 1 hereof. 1913 (2nd Session), c. 17, s. 12.

Charge for liquors in quantities less than one half gallon cannot be recovered

78. No person shall recover or be allowed to set-off any charge for intoxicating liquors in any quantity less than one-half gallon delivered at one and the same time; and specialties, bills, notes, agreements or accounts stated, given or made in whole or in part for or to secure any such charge shall be void; but nothing herein contained shall extend to any charge made by an hotel licensee against any boarder or traveller; it shall not be necessary for any person taking advantage of this section to plead the same specially but he may raise the objection at any stage of the case.

Exception

(2) No person resident within one mile of such hotel or licensed premises shall be considered a traveller within the meaning of this section. C.O., c. 89, s. 78; 1903 (1st Session), c. 26, s. 11.

Suicide or accidental death while intoxicated, person supplying liquor liable to action

79. Whenever in any hotel or other house or place where intoxicating liquors of any kind are sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind therein furnished to him and while in a state of intoxication from such drinking has come to his death by suicide or drowning or perishing from cold or other accident occasioned by such intoxication the person whether the keeper or employee of such hotel, house or other place who delivered to such person the liquor whereby such intoxication was caused shall be liable to an action as for personal wrong at the suit of the legal representatives of the deceased person if such action be brought within three months after such decease but not otherwise; and by such action may recover such sums not less than $100 nor more than $1,000 as may therein be assessed by the court or judge or jury as damages; the keeper of such hotel or other house or place and also any other person or persons who for him or in his employ delivered to such person the liquor whereby such intoxication was caused shall be jointly and severally liable to an action as for personal wrong at the suit of the legal representatives of the deceased person if such action be brought within three months after such decease but not otherwise and such legal representatives may bring either a joint and several action against them or a several action against any or either of them and by such action or actions may recover such sums not less than $100 nor more than $1,000 in the aggregate of any such actions as may therein be assessed as damages; and in the event of final judgment being recovered against any licensee in any action under this section the license of such licensee shall thereupon be forfeited and thereafter be null and void. C.O., c. 89, s. 79.

Wholesalers selling to illicit dealers

80. Any person who sells liquor by wholesale to any person who he knows or has reason to believe is selling liquor without a license, or any wholesale licensee who takes or carries or employs or suffers any other person to take or carry any liquor out of or

from the premises of such licensee for the purpose of being sold on his account or for his benefit or profit and of being consumed in any other house, or in any tent, shed or other building of any kind whatsoever belonging to such licensee, or hired, used or occupied by him, shall be guilty of an offence, and on summary conviction thereof shall be liable—

1. For the first offence to a penalty of not less than $50.00 nor more than $100.00, and in default of payment forthwith after conviction to imprisonment for not less than two months nor more than four months;

2. For a second or any subsequent offence to a penalty of not less than $100.00 nor more than $200.00, and in default of payment forthwith after conviction to imprisonment for not less than four months nor more than six months, or to imprisonment for not less than one month nor more than six months, or to both fine and imprisonment.

(2) In any proceeding under this section it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be consumed belonged to, were hired, used or occupied by the seller, if proof be given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his license.

(3) The onus shall be on any person charged with an offence under this section to prove he did not know the person to whom the said liquor was sold was an unlicensed person. 1911-12, c. 8, s. 16.

Sale without license prohibited

81. No person shall sell by wholesale or by retail or shall keep or have in any house or other place whatsoever any liquor for the purpose of selling, bartering or trading therein without having first obtained a license authorizing him to do so; and any sale or other disposal of liquor to any other person without such license shall be a violation of section 85 of this Ordinance: 1913 (2nd Session), c. 17, s. 13.

Proviso

Provided that the Attorney General may on such terms as to inspection or otherwise as to him shall seem meet, grant permission to any club incorporated by special Act or Ordinance to keep liquor on its premises for the use of the members thereof, but no such permission shall be granted to a club which has not made provision satisfactory to the Attorney General for supplying meals to or sleeping accommodation for the members thereof; and no such permission shall be granted to any club situate in a district in which the electors have declared under the local option provisions of this Ordinance in favour of the prohibition of intoxicating liquor and against the issue of licenses therefor: 1913, c. 17, s. 13.

Chemists and druggists may sell for medicinal purposes

Provided that the provisions of this section shall not prevent any chemist or druggist duly registered as such from keeping, having and, subject to the further provisions of this section, selling liquors for strictly medicinal or mechanical purposes; but no such sale for medicinal purposes shall be made except under certificate from a registered medical practitioner; and it shall be the duty of every such chemist or druggist to record in a book to be open to the inspection of the board of inspectors every sale or other disposal by him of liquor; and such record shall show as to every such sale or disposal the time when, the person to whom and the

quantity in which such liquor is sold and the certificate of the medical practitioner if any; and in default of sale or disposal being so placed on record every such sale or disposal shall *prima facie* be held to be in contravention of the provisions contained in this section:

Provided that any wholesale druggist may without license sell any alcohol wood spirit: Proviso

Provided further that any wholesale druggist may without license sell to any legally qualified druggist or physician any kind of alcohol not exceeding ten gallons and any kind of wine or brandy not exceeding five gallons at any one time:

Provided further that any qualified druggist may sell to any person any combination of alcohol with any drug made according to any formula of the British or United States pharmacopœia:

Provided always that no person authorized to sell liquors as provided by this section shall allow any liquors sold by him or on his premises to be consumed within his shop or the premises of which such shop forms part.

(2) Any chemist or druggist who colourably for medicinal purposes sells liquor to be consumed by any person as a beverage shall on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C.O., c. 89, s. 81. Penalty for evading Ordinance

82. Violation of any of the provisions of subsections (1), (2) and (4) of section 64 hereof shall be an offence for which the person violating shall be liable on summary conviction— Penalty for breach section 64

For the first offence to a penalty of not less than $50 nor more than $100 and in default of payment forthwith after conviction to not less than two months' nor more than four months' imprisonment;

For the second or any subsequent offence a penalty of not less than $100 nor more than $200 with absolute forfeiture of license and in default of payment forthwith after conviction to not less than four months' nor more than six months' imprisonment with absolute forfeiture of license or to imprisonment for not less than one month nor more than six months with absolute forfeiture of license, or to both fine and imprisonment with absolute forfeiture of license. 1903 (1st Session), c. 26, s. 12.

83. Any medical practitioner who colourably for medical purposes gives a certificate or requisition without which liquor could not lawfully be obtained in quantities of more than six ounces, to enable or for the purpose of enabling any person to obtain liquor to drink as a beverage shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C.O., c. 89, s. 83. Penalty for medical practitioner evading Ordinance

84. Any person not licensed to sell liquor to be drunk on the premises who allows or permits liquor purchased from him to be drunk on the licensed premises shall be guilty of an offence and on summary conviction thereof (unless it is made to appear to the justice before whom the offence is charged that such drinking was without his privity or consent) shall be liable on summary Allowing liquor to be consumed on premises not licensed therefor

conviction to a penalty of not less than $50 nor more than $100 with absolute forfeiture of license; and in default of payment forthwith after conviction to not less than two months' nor more than four months' imprisonment with absolute forfeiture of license.

(2) For the purpose of this section the expression "premises where the same is sold" shall include any premises adjoining or near the premises where the liquor is sold if belonging to the seller of the liquor or under his control or used by his permission.

(3) Any purchaser of liquors in a house or premises to which a wholesale license applies who drinks or causes any one to drink or allows liquor to be drunk in the premises where the same has been purchased shall be liable to the penalty and punishment set forth in this section. C.O., c. 89, s. 84; 1901, c. 33, s. 13.

Sales without license

85. Any person who sells or barters liquor of any kind without the license therefor by law required shall be guilty of an offence and on summary conviction thereof shall be liable for the first offence to a penalty of not less than $100.00 nor more than $250.00, and in default of payment of the fine forthwith after conviction to imprisonment for a term of not less than two months nor more than six months; for a second offence to a penalty of not less than $250.00 nor more than $500.00, or to imprisonment for a term of not less than three months nor more than twelve months, or to both fine and imprisonment, and in default of payment of the fine forthwith after conviction to imprisonment for a term of not less than three months nor more than twelve months; for a third or subsequent offence, to a penalty of not less than $500.00 nor more than $1,000, and to imprisonment for a term of not less than nine months nor more than two years, and in default of payment of the said fine forthwith after conviction to a term of not less than nine months nor more than two years. The onus shall be upon any person charged with an offence under this section, or section 81 hereof, to prove that such liquor was not intoxicating. 1910 (2nd Session), c. 2, s. 6; 1911-12, c. 8, s. 19.

Brewers and distillers license

85*a*. Sections 81 and 85 of the said Ordinance shall not prevent any brewer, distiller or other person duly licensed by the Government of Canada for the manufacture of spirituous, fermented or other liquors from keeping or selling in such quantities as are hereby authorized any liquor manufactured by him provided the building in which such liquors are kept forms no part and does not communicate by any entrance with any shop or premises wherein any article authorized to be manufactured under such license is sold by retail, or wherein is kept any broken package of such articles, and provided also that such brewer, distiller or other person has applied for and obtained a license to sell by wholesale in the quantities hereinafter specified.

Quantities that may be sold

(2) The licenses granted under this section shall authorize the sale of liquor in quantities of not less than three gallons in each cask or vessel at any time or where such sale is in respect of bottled liquor in quantities of not less than one dozen bottles of at least three half pints each or two dozen bottles of at least three-fourths of one pint each, at any one time.

(3) The provisions of said Ordinance as to applications for licenses and the proceedings thereon shall not apply to licenses granted under this section.

(4) Such license shall expire on the thirtieth day of June in each year. 1903 (1st Session), c. 26, s. 17; 1913 (2nd Session), c. 17, s. 14.

False pretenses to obtain liquor

86. Every person who by falsely representing himself to be a lodger or traveller buys or obtains or attempts to buy or obtain at any premises any liquor during the period when such premises are required to be closed as to the sale thereof in pursuance of this Ordinance shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty of $20 and in default of payment forthwith after conviction to one month's imprisonment. C.O., c. 89, s. 86.

Inspector shall not receive bribe

87. No inspector shall either directly or indirectly receive, take or have any money whatsoever for any license, report, matter or thing connected with or relating to any grant of any license or receive, take or have any note, security or promise for the payment of any such money or any part thereof from any person or persons whatsoever; and any person or persons guilty of or concerned in or party to any act, matter or thing contrary to the provisions of this section shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $200 and in default of payment forthwith after conviction to imprisonment for three months. C.O., c. 89, s. 87; 1900, c. 32, s. 13.

Penalty

Penalty for causing illegal issue of license

88. Any commissioner, inspector, officer or other person who contrary to the provisions of this Ordinance knowingly issues or causes or procures to be issued any liquor license or a certificate therefor shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $250 and in default of payment forthwith after conviction to imprisonment for six months. C.O., c. 89, s. 88.

Penalty for compounding offences

89. Any person who having or being charged with having violated any of the provisions of this Ordinance, compromises, compounds or settles or offers or attempts to compromise, compound or settle the offence with any person or persons with the view of preventing any complaint being made in respect thereof, or, if a complaint has been made, with the view of getting rid of such complaint or of stopping or having the same dismissed for want of prosecution or otherwise shall be guilty of an offence and on summary conviction thereof be liable to incur a penalty of $100 and in default of payment forthwith after conviction to imprisonment for two months. C.O., c. 89, s. 89.

Penalty for being party to composition

90. Every person who is concerned in or is a party to the compromise, composition or settlement mentioned in the next preceding section shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C.O., c. 89, s. 90.

Penalty for assisting to avoid arrest

91. Any one knowing or having reason to believe that an order to commit to gaol has been issued against any person under this Ordinance who prevents the arrest of such person or procures or facilitates by any act or counsel or in any other manner whatsoever his avoidance of arrest or who provides such person with the

means of avoiding arrest shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to two months' imprisonment in addition to any other penalty provided by law. C.O., c. 89, s. 91.

Convictions operating as forfeiture

92. Every second conviction for any offence against the provisions of sections 77 and 80 hereof, and every conviction for an offence against the provisions of the said sections when there has been a previous conviction for an offence against the provisions of any other of them, and every third conviction for an offence against the provisions of this Ordinance or any of them shall operate as a forfeiture of the license of the offender when not otherwise provided. C.O., c. 89, s. 92.

Penalty for offences not specially provided for

93. Every person who shall violate any of the provisions of this Ordinance for which violation no penalty is herein specially provided shall be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $50 nor more than $100 and in default of payment forthwith after conviction to imprisonment for not less than one month nor more than four months.

(2) The license of any licensee convicted of any violation of the provisions of section 94 of an Act of the Parliament of Canada intituled *An Act respecting Indians* and any amendments thereto shall upon such conviction be forfeited and thereafter be null and void. C.O., c. 89, s. 93.

Contravention of Ordinance by employee of licensee

94. Any contravention of any of the provisions of this Ordinance by any servant, agent or employee of a licensee shall be presumed to be the act of such licensee but such presumption may be rebutted by proof of explicit instructions to the contrary by such licensee, and any such servant, agent or employee contravening any of the provisions of this Ordinance and disobeying any such explicit instructions shall be liable on summary conviction to imprisonment for not less than ten days or more than three months without the option of a fine. C.O., c. 89, s. 94; 1911-12, c. 8, s. 20.

(2) Nothing herein contained shall be deemed to apply to a prosecution under section 64 hereof.

(3) Nothing herein contained shall be in any way affected or impaired by any of the provisions of section 128 hereof.

Occupant of premises liable

95. Except as provided in the preceding section the occupant of any house, shop, room or other place in which any sale, barter or traffic of liquors, or any matter, act or thing in contravention of any of the provisions of this Ordinance has taken place shall be personally liable to the penalty prescribed for such offence, as the case may be, notwithstanding such sale, barter or traffic be made or other matter, act or thing to be done by some other person who cannot be proved to have so acted under or by the directions of such occupant; and proof of the fact of such sale, barter or traffic or other act, matter or thing by such person in the employ of such occupant or who is suffered to remain in or upon the premises of such occupant or to act in any way for such occupant shall be conclusive evidence that such sale, barter or

traffic or other act, matter or thing took place with the authority and by the direction of such occupant. C.O., c. 89, s. 95; 1901, c. 33, s. 14.

Failure to post synopsis of Ordinance

96. Every licensee failing to post up a synopsis of this Ordinance on being requested to do so by the inspector shall be guilty of an offence and on summary conviction thereof be liable to forfeit $25; such synopsis shall be printed in such languages as the board may direct. C.O., c. 89, s. 96.

POWERS OF INSPECTORS AND OFFICERS.

Officers may enter and search premises

97. Any police officer, policeman or constable or inspector of licenses shall for the purpose of preventing or detecting the violation of any of the provisions of this Ordinance which it is his duty to enforce, at any time have the right to enter into any and every part of any hotel or other place wherein refreshments or liquors are sold or reputed to be sold whether under license or not or where he believes that liquors are kept for sale contrary to the provisions of this Ordinance and to make searches in every part thereof and of the premises connected therewith as he may think necessary for the purpose aforesaid and for such purpose may with such assistance as he deems expedient break open any door, lock or fastening of such premises or any part thereof of any closet, cupboard, box or other receptacle which might contain liquor.

Penalty for refusing admittance to officers

(2) Every person being therein or having charge thereof who refuses or fails to admit such police officer, policeman, constable or inspector demanding to enter in pursuance of this section in the execution of his duty or who obstructs or attempts to obstruct the entry of such police officer, policeman, constable or inspector or any such searchers as aforesaid shall be guilty of an offence and on summary conviction thereof be liable to a fine of $50 and in default of payment forthwith after conviction to one month's imprisonment in addition to any other punishment in such case provided. C.O., c. 89, s. 97; 1900, c. 32, s. 14; 1901, c. 33, s. 15.

Search warrant

98. Any justice if satisfied by information on the oath of any police officer, policeman, constable or inspector that there is reasonable ground for belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Ordinance in any unlicensed house or place within his jurisdiction may in his discretion grant a warrant under his hand by virtue whereof it shall be lawful for the person named in such warrant at any time or times within ten days from the date thereof to enter if need be by force the place named in the warrant and every part thereof and of the premises connected therewith and to examine the same and search for liquor therein and for such purpose such person may if necessary with such assistance as he deems expedient break open any door, lock or fastenings of such premises or any part thereof or of any closet, cupboard, box or other article suspected to contain any such liquor; and in the event of any liquor being so found unlawfully kept on the said premises the occupant thereof shall until the contrary is proved be deemed to have kept such liquor for the purposes of sale contrary to the provisions of section 81 of this Ordinance and may

be arrested by such officer or person having the warrant for search as aforesaid.

Seizure and forfeiture of liquor and vessels

(2) When any inspector, policeman, constable or officer in making or attempting to make any search under or in pursuance of the authority conferred by section 97 of this Ordinance or under the warrant mentioned in this section finds in an unlicensed house or place any liquor which in his opinion is unlawfully kept for sale or disposal contrary to this Ordinance he may forthwith seize and remove the same and the vessels in which the same is kept and upon the conviction of the occupant of such house or place or any other person for keeping liquor for sale in such house or place without license the justice making such conviction may in and by the said conviction or by a separate and subsequent order declare the said liquor and vessels or any part thereof to be forfeited to His Majesty to be sold or otherwise disposed of as the Attorney General may direct; and the proceeds of any such sale shall be forthwith transmitted to the Territorial Treasurer to form part of the general revenue fund. C.O., c. 89, s. 98; 1907, c. 9, s. 26.

Powers of inspectors, etc., regarding liquors in transit

(3) Where an inspector, policeman, constable or officer finds liquor in transit or in course of delivery upon the premises of any railway company, or at any wharf, railway station, express office, warehouse or other place and believes that such liquor is to be sold or kept for sale in contravention of this Act, he may forthwith without warrant seize and remove the same.

Power of search

(4) Any inspector, policeman, constable or officer if he believes that liquor intended for sale or to be kept for sale in violation of this Act is contained in any vehicle on a public highway or elsewhere or is concealed upon the lands of any person, shall have power without warrant to search for such liquor wherever he may suspect it to be and if need be by force and may search the person himself and may seize and remove any liquor found and the vessels in which the same is kept.

Procedure regarding liquor seized in transit

(5) Where liquor has been seized under subsections (3) or (4) hereof, the person seizing the same shall lay an information under oath before a justice of the peace, who shall thereupon issue his summons directed to the consignee or owner of the liquor, calling upon him to appear at a time and place named in the summons and show cause why such liquor should not be dealt with as provided by subsection (2) hereof.

(6) It shall be sufficient service of the summons if the same is served personally or left with some person apparently over sixteen years of age at the residence of such consignee or owner.

Summons when returnable

(7) The summons shall be made returnable within thirty days after the service thereof.

Adjudication

(8) At the time and place named in the summons any person who claims that the liquor is his property and that same is not intended to be sold or kept for sale in violation of this Act may appear and give evidence before the justice, and the justice shall receive such evidence and the evidence of the person who seized the liquor and such other evidence as may be adduced in the same manner as upon a complaint or information made under this Act.

Disposition of liquor

(9) If no person claims to be the owner of the liquor or if the magistrate disallows a claim and finds that it was intended that such liquor was to be sold or kept for sale in contravention of any of the provisions of this Act he may order that such liquor and

any vessels containing the same shall be forfeited to His Majesty to be sold or otherwise dealt with in such manner as the Attorney General may direct.

May be sold to licensee

(10) The liquor so seized may under the direction of the Attorney General be sold to any hotel or wholesale licensee and the proceeds after payment of any lawful costs of carriage and the expenses of such seizure and sale shall forthwith be transmitted to the Attorney General. 1910, c. 2, s. 8 (7).

(11) If the liquor so seized is addressed or consigned to some person outside the Province of Alberta, the same shall be kept for a period of thirty (30) days after seizure and no prosecution shall be necessary in respect thereto, and if the owner can not prove that said liquor was not being shipped in contravention of this Ordinance the same may be disposed of at the direction of the Attorney General. 1913 (2nd Session), c. 17, s. 15.

Authority of police officers, policemen and constables

99. Police officers, policemen and constables shall have full authority to enforce any of the provisions of this Ordinance. C.O., c. 89, s. 99.

PROSECUTIONS.

Time for prosecutions

100. Prosecutions for offences created by this Ordinance shall be instituted within six months after the commission of the alleged offence. C.O., c. 89, s. 100.

Description of offences

101. The description of any offence under this Ordinance in the words of this Ordinance or in words of like effect shall be sufficient in law; and any exception, exemption, provision, excuse or qualification, whether it does or does not accompany the description of the offence in this Ordinance may be proved by the defendant, but need not be specified or negatived in information; but if it be so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. C.O., c. 89, s. 101.

Negativing exemptions

Several offences charged in one complaint

102. Several charges of contravention of this Ordinance committed by the same person may be included in one and the same information or complaint; provided that such information and complaint and the summons or warrant issued thereon contains specifically the time and place of each contravention. C.O., c. 89, s. 102; 1911-12, c. 8, s. 21.

Describing offences in information, etc.

103. In describing the offences respecting the sale or other disposal of liquor or the keeping or the consumption of liquor in any information, summons, conviction, warrant or proceeding under this Ordinance it shall be sufficient to state the sale, disposal, keeping or consumption of liquor simply without stating the name or kind of such liquor or the price thereof or the name of any person to whom it was sold or disposed of or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept or consumed except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity as the case may require. C.O., c. 89, s. 103.

Forms

104. The forms set forth in schedule 2 to this Ordinance, or any forms to the like effect, shall be sufficient in the cases thereby

respectively provided for; and when no forms are prescribed by the said schedule they may be framed in accordance with part 15 of *The Criminal Code* or any act passed in amendment or substitution thereof. 1911-12, c. 8, s. 22.

Proceedings where previous conviction charged

105. The proceedings upon informations for an offence against any of the provisions of this Ordinance, in a case where a previous conviction is charged, shall be as follows:

Charge for subsequent offence to be tried first

1. The justice shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof he shall then and not before be asked whether he was so previously convicted as alleged in the information and if he answers that he was so previously convicted he shall be sentenced accordingly; but if he denies that he was so previously convicted or does not answer such question, the justice shall then inquire concerning such previous conviction or convictions;

Proof of previous conviction

2. Such previous conviction may be proved *prima facie* by the production of a certificate purporting to be under the hand of a convicting justice or the clerk of the court to whose office the conviction has been returned or the Attorney General without proof of signature or official character and without proof of identity of the person charged with the person named in such certificate.

Subsequent conviction if former quashed may be amended

3. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof by reason of any previous conviction being set aside, quashed or otherwise rendered void the justice by whom such second or subsequent conviction was made shall summon the person convicted to appear at a time and place to be named and shall thereupon upon proof of the due service of such summons if such person fails to appear, or on his appearance, amend such second or subsequent conviction and adjudge such penalty or punishment as might have been adjudged had such previous conviction never existed; and such amended conviction shall thereupon be held valid to all intents and purposes, as if it had been made in the first instance;

Convictions under s. 92.

4. In case any person who has been convicted of a contravention of any provision of any of the sections of this Ordinance mentioned in section 92 hereof is afterwards convicted of an offence against any provision of any of the said sections such conviction shall be deemed a conviction for a second offence within the meaning of the said section and shall be dealt with and punished accordingly although the two convictions may have been under different sections. C.O., c. 89, s. 105; 1903 (1st Session), c. 26, s. 14.

Conviction for several offences

106. Convictions for several offences may be made under this Ordinance although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence. C.O., c. 89, s. 106.

Commissioner or inspector not to act as J.P., etc.

107. No member of the board of license commissioners or inspector of licenses who is a justice shall try and adjudicate upon any complaint for an infraction of any of the provisions

of this Ordinance committed within the Territorial limits for which he is commissioner or inspector. C.O., c. 89, s. 107.

Record of conviction to be endorsed on license

108. Whenever a licensee is convicted of any offence against the provisions of this Ordinance a record thereof shall be endorsed on the license of the person convicted and the following provisions shall have effect, that is to say:

Production of license

1. The justice before whom any licensed person is accused shall require such person to produce and deliver to him the license under which such person carries on business and the summons shall state that such production will be required, and refusal or neglect by the licensee to produce such license when required shall be treated as a refusal by a witness to produce a document when required so to do and punished accordingly;

Endorsement

2. If such person is convicted the justice convicting shall cause the short particulars of such conviction and the penalty imposed to be endorsed on his license before it is returned to the offender; and such record shall be *prima facie* evidence of such conviction where such is subsequently required;

Justices shall report conviction to Attorney General

3. All justices shall notify the Attorney General in writing of any convictions they have made, and the Attorney General shall enter the particulars respecting such convictions or such of them as the case may require in the register of licenses kept by him under this Ordinance, and in case the conviction is against a licensee shall endorse the same upon any license which may subsequently be issued to the person so convicted;

Conviction to be endorsed on license

Where effect is forfeiture Attorney General to be notified

4. Where the conviction of any such person has the effect of causing the forfeiture of the license of or disqualifying any person for the purposes of this Ordinance the license shall be forwarded by the justice with notice of such forfeiture or disqualification to the Attorney General. C.O., c. 89, s. 108; 1900, c. 32, ss. 1 and 15; 1907, c. 9, s. 27.

Certificate of conviction

109. The justice on any conviction of a licensee for an offence against this Ordinance shall send forthwith to the Attorney General a certificate of such conviction. C.O., c. 89, s. 109; 1900, c. 32, s. 1.

Costs allowed to justice

110. For the additional duties imposed by the two next preceding sections the justice shall be entitled to charge as costs in the proceedings the following sums:

1. For making up and forwarding certificate of conviction to the Attorney General the sum of fifty cents;

2. For recording the conviction on the license the sum of fifty cents. C.O., c. 89, s. 110; 1900, c. 32, s. 1.

Third conviction forfeits license and disqualifies

111. When not otherwise provided a third conviction of a licensee for violation or contravention of the provisions of this Ordinance shall *ipso facto* operate as a forfeiture of his license and disqualify the person convicted from obtaining a license for three years thereafter. C.O., c. 89, s. 111.

EVIDENCE, ETC.

Certificate of Attorney General

112. In any prosecution or proceeding under this Ordinance in which proof is required respecting any license or interdiction, a certificate purporting to be under the hand of the Attorney

General shall be *prima facie* proof of the existence of such license or interdiction and of the identity of the person to whom the license was granted or transferred, or against whom the interdiction was made; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the Attorney General without any proof of his appointment or signature.

Onus on defendant to prove license

(2) In any prosecution under this Ordinance wherever it appears that the defendant has done any act or been guilty of any omission in respect of which, were he not duly licensed, he would be liable to some penalty under this Ordinance, it shall be incumbent upon the defendant to prove that he is duly licensed and that he did the said act lawfully. C.O., c. 89, s. 112; 1900, c. 32, s. 1; 1904, c. 14, s. 4; 1907, c. 9, s. 28.

Evidence of interdiction

(3) The production of a certificate of interdiction purporting to be under the hand of the Attorney General shall be conclusive proof that all the provisions of this Ordinance with regard to the interdiction of any person have been complied with, and thereupon the validity of such interdiction shall not be questioned by any court. 1911-12, c. 8, s. 23.

Proof of regulations

113. Any regulation made by the board shall be sufficiently authenticated by being signed by them and a copy of such regulation written or printed and certified to be a true copy by them or one of them shall be deemed authentic and be received as *prima facie* evidence in any court of justice without proof of the signature or signatures unless it is specially pleaded or alleged that the signature or signatures to any such original resolution have been forged and evidence of such forgery has been adduced by the person accused sufficient in the opinion of the court to make the proving of the signature or signatures advisable. C.O., c. 89, s. 113.

Appliances of liquor trade evidence

Appliances

114. Any house, shop, room or other place in which it is proved that there exists a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses or any other appliances or preparations similar to those usually found in hotels and shops where liquors are accustomed to be sold or trafficked in shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in contravention of section 81 of this Ordinance unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken to be the person who has or keeps therein such liquors for sale, traffic or barter therein. C.O., c. 89, s. 114.

Proof of contravention

115. In proving the sale or disposal, gratuitous or otherwise, or consumption of liquor, for the purposes of any proceeding relative to any offence under this Ordinance it shall not be necessary to show that any money actually passed or any liquor was actually consumed, if the justice or justices hearing the case is or are satisfied that a transaction in the nature of a sale or other disposal actually took place or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on premises in respect to which a license is required under this Ordinance by some person other than the

occupier of the premises shall be evidence that such liquor was sold to the person consuming or being about to consume or carrying away the same as against the occupant of the said premises.

Books, papers, etc., to be produced

(2) Any person summoned as a party to or as a witness in any proceeding under this Ordinance may by the summons be required to produce at the time and place appointed for his attendance all books and any papers, accounts, deeds and other documents in his possession, custody or control, relating to any matter connected with the said proceeding, and shall be liable to the same penalty for nonproduction of such books, papers or documents as he would incur by refusal or neglect to attend pursuant to such summons, or to be sworn, or to answer any question touching the same.

Proof of consumption of liquor on unlicensed premises conclusive evidence

(3) Save as in this Ordinance otherwise provided, in any prosecution for a violation of any of the provisions of this Ordinance, with respect to the sale or barter of liquor of any kind without the license by law required, proof of the consumption or intended consumption of liquor upon premises where such liquor is alleged to be bartered or sold shall be conclusive evidence of such offence:

Permit be issued to consume at *bona fide* banquet

Provided, however, that the consumption of liquor by any person in actual attendance at any *bona fide* banquet held in any unlicensed eating house or restaurant shall not be deemed to be an offence if the occupant of such eating house or restaurant has paid a fee of $10 and obtained the written permission of the Attorney General for such purpose; and provided further that such permission shall not entitle the occupant of such eating house or restaurant to make any transaction in the nature of a sale of the liquor consumed upon such premises at such banquet, and any such transaction in the nature of a sale of liquor by the occupant of any such eating house or restaurant shall subject such occupant to the same penalties as he would have been subject to had he not obtained such permission. C.O., c. 89, s. 115; 1907, c. 9, s. 29; 1914, c. 21, s. 1.

Precise description of liquor unnecessary

116. In any prosecution under this Ordinance for the sale or other disposal of liquor without the license required by law it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor. C.O., c. 89, s. 116.

What *prima facie* evidence of sale

117. The fact of any person not being a licensee keeping up any sign, writing, painting or other mark in or near to his house or premises or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor or that liquor is sold or served therein or that there is on such premises more liquor than is reasonably required for the persons residing therein shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person. C.O., c. 89, s. 117.

Proof of licenses

118. The production of a license which on its face purports to be duly issued and which were it duly issued would be a lawful authority to the defendant for such an act of omission shall be *prima facie* evidence that the defendant is so authorized

and in all cases the signature to and upon any instrument purporting to be a valid license shall *prima facie* be taken to be genuine. C.O., c. 89, s. 118.

(2) In any prosecution under said Ordinance, or amendments thereto, production by the inspector or any other officer (as defined by *The Criminal Code*) of a certificate signed or purporting to be signed by the provincial analyst as to the analysis of any liquor shall be conclusive evidence of the facts stated in such certificate and of the authority of the provincial analyst, without any proof of his appointment or signature. 1910 (2nd Session), c. 2, s. 8 (8).

Amendment of information

118*a*. In any prosecution for the violation of any of the provisions of the said Ordinance in the event of any variance between the information and the evidence adduced in support thereof the justice or justices hearing the case may amend such information and may substitute for the offence charged therein any other offence against the provisions of said Ordinance, but if it appears that the person charged has been materially misled by such variance he shall be granted an adjournment of the hearing if he applies therefor. 1903 (1st Session), c. 26, s. 18.

New section substituted

118*b*. In all cases of prosecution for any offence against any provisions of this Ordinance for which any penalty or punishment is prescribed, a conviction or order of the justice, justices or police magistrates, as the case may be, except as hereinafter

No appeal from conviction, except in certain cases

mentioned, shall be final and conclusive and except as hereinafter mentioned, against such conviction or order there shall be no appeal.

Appeal to District Court by licensee

(2) Subject to the provisions contained in the following subsections hereof, an appeal shall lie to the judge of the District Court of the district in which the conviction is made, without a jury in all cases where the person convicted is a licensee or the conviction is for any offence committed on or with respect to premises licensed under this Ordinance, provided a notice of such appeal is given to the prosecutor or complainant within five days after the date of the said conviction.

Convicted licensee to remain in custody or may give recognizance

(3) The person convicted, in case he is in custody, shall either remain in custody until the hearing of such appeal before the said judge, or (where the penalty of imprisonment with or without hard labour is adjudged) shall enter into a recognizance with two sufficient sureties, in the sum of $200 each, before the convicting justice, justices or police magistrates, conditioned personally to appear before the said judge, and to try such appeal and abide his judgment thereupon, and to pay such costs as he may order; and in case the appeal is against a conviction whereby only a penalty or sum of money is adjudged to be paid, the appellant may (although the order directs imprisonment in default of payment) instead of remaining in custody as aforesaid, give such recognizance as aforesaid or may deposit, with the said justice, justices or police magistrates convicting, the amount of the penalty and costs, and a further sum of $25 to answer the respondent's costs of appeal.

Upon recognizance being given or deposit made person to be liberated

(4) Upon such recognizance being given or deposit made the said justice, justices or police magistrates shall liberate such persons, if in custody, and shall forthwith deliver or transmit by registered letter postpaid, the depositions and papers in the case, with the recognizance or deposit, as the case may be, to the

clerk of the District Court of the district wherein such conviction was held, or to such other person as may under the provisions of any law, order, rule or regulation be exercising the functions of clerk of the District Court.

Appellant to pay fee to clerk for attendance

(5) The appellant shall pay to such clerk for his attendance and services in connection with such appeal the sum of $1, and the same may be taxed as costs in the cause.

Appeal to District Court from order of dismissal

(6) An appeal shall lie to the judge of the District Court of the district in which an order of dismissal is made, without a jury, where the Attorney General of the province so directs, in all cases in which an order has been made by a justice or justices dismissing an information or complaint laid by an inspector or any one on his behalf, for contravention of any of the provisions of this Ordinance provided notice of such appeal is given to the defendant or his solicitor within fifteen days after the date of such order of dismissal.

Hearing of appeal from order of dismissal

(7) Within ten days after service of the notice of appeal the judge shall grant a summons calling upon the defendant and the justice or justices making the order to show cause why the order of dismissal should not be reversed and the case reheard. Upon the return of the summons the judge, upon hearing the parties, may either affirm or quash the order, or if he thinks fit may hear the evidence of such other witnesses as may be produced before him, or the further evidence of any witnesses already examined, or may make an order affirming the order of dismissal, or may reverse such order and convict the defendant and may impose such fine and costs or other penalty as is provided by this Ordinance, and the order so made shall have the same effect and shall be enforced in the same manner as is provided in the case of convictions before magistrates under this Ordinance.

Part 15 of Criminal Code to govern appeals

(8) The practice and procedure upon such appeals and all the proceedings thereon, shall thenceforth be governed by the provisions of part 15 of *The Criminal Code* or any Act passed in amendment or substitution thereof so far as the same is not inconsistent with this Act: 1911-12, c. 8, s. 24.

No conviction to be removed by *certiorari*

Provided no such conviction or order as aforesaid shall be removed by *certiorari* except upon the ground that an appeal to the court to which an appeal is by law provided would not afford an adequate remedy:

No writ of *certiorari* to issue unless affidavit made

And provided further that no writ of *certiorari* shall issue for the purpose of quashing any conviction for any violation or contravention of any of the provisions of this Ordinance unless the party applying therefor shall produce to the judge to whom the application is made an affidavit that he did not by himself or by his agent, servant or employee, or any other person with his knowledge or consent commit the offence charged in the information; and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agent, servant or employee of the accused, or any other person with his knowledge.

Appeal by inspector to Supreme Court *en banc* for order quashing conviction by District Court

(9) An appeal by an inspector, or other prosecutor, shall lie to the Supreme Court of Alberta *en banc* from the decision, judgment or order of any judge of a District Court upon an appeal from any conviction or order made in a case arising out of or under this Ordinance in which conviction or order has been quashed or set aside upon the ground directly or indirectly of the invalidity of any Ordinance, or of any Act or Acts of the

Legislature of this province, or of any part thereof or from the decision, judgment or order of the judge of a District Court in any other case arising out of or under this Ordinance, in which the Attorney General of the province certifies that he is of the opinion that the matters in dispute are of sufficient importance to justify an appeal; such appeal shall be had upon notice thereof to be given to the opposite party of his intention to appeal within eight days or where the certificate of the Attorney General is necessary and is obtained within fifteen days after such judgment, decision, or order has been made, and in the case of such appeal, the clerk of the District Court or such other person as may under the provisions of any law, order, rule or regulation be exercising the functions of clerk of the District Court shall certify the judgment, convictions, orders and all other proceedings, to the registrar of the Supreme Court of Alberta for use upon the appeal. The said court shall thereupon hear and determine the said appeal, and shall make such order for carrying into effect the judgment of the court as the court shall think fit.

No appeal unless affidavit made negativing offence

(10) No appeal shall lie by any person convicted of an offence under the provisions of this Act unless the party appealing shall within the time limited for giving notice of such appeal make an affidavit before the justice, or one of the justices or police magistrates, who tried the cause, that he did not by himself or by his agent, servant or employee nor did any other person with his knowledge or consent, commit the offence charged in the information; and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agent, servant or employee of the accused or any other person with his knowledge or consent; which affidavit shall be transmitted with the conviction to the court to which the appeal is given.

No conviction to be transmitted by justice until affidavit filed

(11) Any justice making a conviction for any violation or contravention of any of the provisions of this Ordinance shall not transmit the conviction to the court to which an appeal is given unless and until the affidavit required by this section has been made and deposited with him; and unless such affidavit shall be made and deposited with such justice within the time limited by this section any notice of appeal or other proceedings respecting appeal which may be given or taken shall be absolutely null and void and of no effect whatever; and the justice shall proceed in respect of such conviction as if no such notice of appeal had been given or proceeding taken.

Attorney General may apply to expedite hearing of appeal

(12) Upon notice being given of appeal from a conviction for an infraction of this Ordinance, a consequence of which conviction is a forfeiture of the license of the person convicted, and upon the affidavit required by this section being made and deposited as provided, the Attorney General may apply to the court to which such appeal is made to expedite the hearing of the said appeal and to fix the time and place for such hearing; and the court shall thereupon fix such time and place for the disposal of the said appeal as to it may seem proper. 1900, c. 32, s. 22; 1901, c. 33, s. 21; 1907, c. 9, s. 30.

COSTS TO INSPECTORS.

Costs allowed inspector attending court as prosecutor or witness

119. In any prosecution under this Ordinance if an inspector attends the court as prosecutor or witness it shall be lawful for

the justice trying the case to order the defendant in case of a conviction to pay to the inspector the following costs:

(*a*) In case he travels by railway or stage the fares actually to be paid by him;

(*b*) If he travels by hired conveyance the sums actually required to be paid by him for conveyance, stabling and feed;

(*c*) If he travels in his own conveyance, ten cents per mile each way;

(*d*) To cover all other expenses, $2 per day actually occupied in going to, attending at and returning from the trial;

(*e*) In cases of adjournment at the instance of the defendant similar additional allowances to be made when the inspector is actually in attendance.

(2) The foregoing expenses shall be verified by the oath of the inspector.

(3) In case the person convicted does not pay such costs but is committed to gaol in default of payment the inspector shall be entitled to be paid the amount out of the general revenue fund.

(4) In case of prosecution by inspectors when no conviction is procured, upon the written certificate of the justice trying a case that there were reasonable grounds for the prosecution the inspector shall be entitled to be paid the said costs out of the general revenue fund.

(5) Subsections (3) and (4) of this section shall not apply to any inspector who receives salary in lieu of all other charges and expenses. C.O., c. 89, s. 119; 1901, c. 33, s. 16.

INTERDICTION.

Interdiction for intemperance, procedure

120. When complaint has been made to a justice that any person by excessive drinking of liquor misspends, wastes, or lessens his estate or greatly injures his health or endangers or interrupts the peace and happiness of his family, the said justice shall institute proceedings under part 15 of *The Criminal Code* or any Act passed in amendment or substitution thereof against such person and on finding the complaint well founded shall by order in form J appended hereto, forbid every licensed person in the Territories to sell him liquor for the space of two years. C.O., c. 89, s. 120; 1900, c. 32, s. 16. 1911-12, c. 8, s. 25.

Notice of interdiction to be given to licensees

121. Immediately after granting the order provided for in the next preceding section the justice making the same shall transmit it together with the complaint and any evidence taken thereon before him to the Attorney General who thereupon shall transmit by registered post or deliver a notice in form K appended hereto to all licensees and clubs incorporated by special Ordinance of the North-West Territories, or by special Act of the Province of Alberta, whose premises are in the locality where such interdicted person lives.

Penalty for supplying liquor to interdicted person

(2) Whenever the sale of liquor to any such drunkard shall have been so prohibited any person with a knowledge of such prohibition who gives, sells, purchases or procures any liquor to, for, or on behalf of such prohibited person or for his or her use during the period of such prohibition shall be guilty of an offence and upon summary conviction thereof shall be liable for every

such offence to a penalty not less than $50 nor more than $200 and in default of payment forthwith after conviction, to not less than two months' nor more than twelve months' imprisonment, and if a licensee his license shall be forfeited. C.O., c. 89, s. 121; 1900, c. 2, s. 17; 1907, c. 9, s. 31.

Certain persons may require inspector to give interdiction notice

122. The following persons, viz.:

(*a*) Any husband or wife whose wife or husband has contracted the habit of drinking intoxicating liquors to excess;

(*b*) The person himself or the father, mother, brother, sister, curator, guardian or child of twenty-one years or upwards or employer of any person who has contracted the habit of drinking intoxicating liquors to excess;

(*c*) The manager or person in charge of an asylum or hospital or other charitable institution in which any person who has contracted the habit of drinking intoxicating liquors to excess resides or is kept;

(*d*) The curator or committee of any lunatic; or

(*e*) The father, mother, brother or sister of the husband or wife of any person who has contracted the habit of drinking intoxicating liquors to excess;

may require an inspector to give notice in writing in form L in schedule 1 of this Ordinance signed by him to all licensees and clubs incorporated by special Ordinance of the North-West Territories or by special Act of the Province of Alberta whose premises are in the locality where such drunkard or lunatic resides not to sell, give or deliver or suffer to be sold, given or delivered to such drunkard or lunatic any intoxicating liquor for the period of one year from the date of such notice, and such inspector shall thereupon give such notices and shall forward to the person interdicted a notice in form M in schedule 1 of this Ordinance and shall at the same time forward to the Attorney General a duplicate of such last named notice.

Examination of interdicted person as witness

(2) In any prosecution or proceedings under this and the next preceding section no interdicted person required to be examined as a witness shall be excused from being so examined or from answering any question put to him touching the sale or delivery to him of any liquor on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly or to answer any such question shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court and refusing without lawful cause or excuse to be sworn or give evidence may by law be dealt with; and every person so required to be examined as a witness who upon such examination makes true disclosures to the best of his knowledge of all things as to which he is examined shall receive from the justice before whom such proceedings is had a certificate in writing to that effect and shall be freed from all prosecutions and from all penalties and punishments to which he has become liable for anything done before that time under the provisions of section 123 of this Ordinance in respect of the matters regarding which he has been examined; and any prosecution or proceeding pending or brought against such witness under the provisions of section 123 hereof in respect of any matter regarding which he has been

so examined shall be stayed upon the production and proof of such certificate if the said certificate states that such witness made a true disclosure in respect to all things as to which he was examined.

Penalty for supplying liquor to interdicted person

(3) Whenever the sale of liquor to any such drunkard shall have been so prohibited any person with a knowledge of such prohibition who gives, sells, purchases or procures to, for, or on behalf of such prohibited person or for his or her use any liquor during the period of such prohibition shall be guilty of an offence and upon summary conviction thereof be liable to incur for every such offence a penalty not less than $50 nor more than $200 and in default of payment forthwith after conviction to not less than two months' nor more than twelve months' imprisonment and if a licensee his license shall be forfeited. C.O., c. 89, s. 122; 1900, c. 32, s. 19 (1); 1901, c. 33, s. 17; 1904, c. 14, s. 5; 1907, c. 9, ss. 32 and 33.

Interdicted person obtaining liquor

123. Any person to whom the sale of liquor has been prohibited under this Ordinance who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any intoxicating liquor shall be liable on summary conviction thereof to a fine of not more than $50 and in default of payment forthwith after conviction to imprisonment for not more than one month; in any prosecution under this section if intoxication on the part of the defendant be proved he shall be held to have been guilty of an offence and in any such case it shall not be necessary in any proceedings to state the name of the person from whom the liquor has been procured or by whom the sale, disposal, gift or delivery of liquor has been made.

Penalty

Interdicted person not to be found in bar room or wholesale store

(2) Any interdicted person who frequents or is found in the bar room of any licensed hotel or on premises for which a wholesale license has been granted shall be guilty of an offence against this Ordinance and on being so found in any such bar room or premises for which a wholesale license has been granted may be arrested and on summary conviction shall be liable to a fine of not more than $50 and in default of payment forthwith after conviction to imprisonment for not more than one month. C.O., c. 89, s. 123; 1907, c. 9, s. 34.

OPTION CLAUSES.

Local option

124. No license shall be granted by the board for the sale of liquors within the limits of a license district when it shall have been made to appear to the board in manner hereinafter provided that a majority of three-fifths of the duly qualified electors therein who have voted at a poll taken as hereinafter specified, have declared themselves to be in favour of a prohibition of the sale of intoxicating liquors in their district and against the issue of licenses therefor.

Vote

Section 124 amended

(2) If before the 15th day of August in any year a requisition, accompanied by the sum of $100 (to defray the expenses of the poll hereinafter specified), is presented to any member of the board from a number of the persons qualified to vote at the taking of a poll under the provisions of this section as hereinafter provided, estimated as near as may be at least one-fifth of the total number of such persons in the district (the basis of such

estimate being the number of persons who voted in such district at the last contested elections for the members of the Legislative Assembly for the territory comprised in such license district requiring a poll to be taken as to whether or not such license shall issue or be granted therein), it shall be the duty of such member upon receipt of the said requisition and the said sum of $100 to scrutinize the names of the persons attached to such requisition, and upon being satisfied that the names so attached are those of as near as may be the required number of persons so qualified to vote and after the person or persons who have witnessed the signatures to the said requisition have sworn or made a statutory declaration before any person authorized to administer oaths:

(*a*) That he, the said witness, or they the said witnesses, were present and saw the said persons sign the said requisition; and

(*b*) That the said persons signed the said requisition within thirty days of the date of such affidavit;

such member shall by order, under his hand, appoint a day for the taking of such poll, which shall be in the month of October or November next following the presentation of such requisition and appoint a returning officer to have charge of the taking of such poll.

(3) The returning officer shall forthwith divide such district into polling subdivisions, shall determine the boundaries of such subdivisions, fix the places therein where the poll shall be held, appoint deputy returning officers therefor, and publish by proclamation under his hand—

(*a*) The day fixed for taking of the poll;

(*b*) The names and fully described boundaries of the polling subdivisions of the license district, and the places at which the several polls shall be held;

(*c*) The time when and the place where he will add up the number of votes given for and against the prohibition of the sale of intoxicating liquors in the district and against the issue of licenses therefor, and will publicly declare the result of the poll.

(4) Such proclamation shall at least fifteen days prior to the date fixed for the taking of the poll be posted up in at least two conspicuous places in each polling subdivision within the district.

(5) For the purpose of taking the poll the returning officer shall have all the powers for the preservation of the peace which are by law vested in the returning officer at any election of a member of the Legislative Assembly, and shall have all the powers of appointing and swearing constables.

(6) The persons qualified to vote at the taking of such poll shall be all male British subjects of the full age of twenty-one years, who are not unenfranchised Indians, who have resided in the Province of Alberta for at least twelve months, and in the license district for at least three months prior to the date of the taking of such poll.

(7) Every deputy returning officer shall administer to any elector, if required, either one or both of the following oaths:

No. 1.

You do swear that you are a male British subject; that you have attained the full age of twenty-one years; that you are not

an unenfranchised Indian; and that you have resided in the Province of Alberta for at least the twelve months and in this license district for at least the three months respectively immediately preceding this date. So help you God.

No. 2.

You do swear that you have not received any money or other reward nor have you accepted any promise made to you directly or indirectly to induce you to vote at this election and that you have not before voted at this election either at this or any other polling station. So help you God.

(8) The poll shall be taken by ballot upon the day appointed between the hour of nine o'clock in the forenoon and five o'clock in the afternoon.

The returning officer shall furnish every deputy returning officer with a sufficient number of ballots which shall be in a form approved by the Lieutenant Governor in Council.

(9) The provisions of *The Alberta Election Act*, being chapter 3 of the Statutes of Alberta, 1909, or any Act passed in amendment or substitution thereof in regard to the duties and powers of the returning officer, deputy returning officer, poll clerks and other officers, the taking of the poll, the conduct of elections generally and the forms prescribed by the said Act, shall *mutatis mutandis*, apply to a poll taken under the provisions of this Ordinance and be read and construed as part thereof, except where the same may be inconsistent with any of the provisions herein contained.

(10) As soon as possible after the result has been announced the ballot boxes, packets and returns shall be deposited in the office of the member of the board authorizing the taking of the poll.

(11) The validity of any poll taken under the provisions of this section shall be determined as nearly as may be in the manner provided by *The Controverted Municipal Elections Act* for the trial of contested municipal elections; any person who gave or tendered his vote at the taking of such poll may be the relator for such purpose and the provisions of the said *Controverted Municipal Elections Act* shall *mutatis mutandis* apply to all proceedings had or taken in regard to the determination of the validity of such poll.

(*b*) The judge trying the question of the validity of such poll may require the member of the board in whose office the ballot boxes, packets and returns referred to herein, have been deposited under the provisions of this section, to produce before him such ballot boxes, packets and returns and such other records of the election and papers in his hands connected therewith as to the judge from time to time may seem fit.

(12) Nothing in this section shall be construed as permitting any of the proceedings had or papers filed or notices required therein to be vitiated or set aside by reason of any mere want or defect of form or any irregularity in the drawing up or execution of the same.

(13) The decision of the three-fifths of the persons voting thereon in favour of the prohibition of the sale of intoxicating liquors in their district and against the granting of licenses therefor as declared at the poll shall come into force in the then ensuing license year beginning on the first day of July and such prohibition

shall continue in full force for such year and any future year until repealed; and each and all of the provisions of this section shall apply to the proceedings to be taken in reference to such repeal. 1911-12, c. 8, s. 26.

When new vote can be taken

(14) In case of any such vote being taken as provided in this section then no new vote other than that provided for in this section shall be taken for a period of three years thereafter.

Expenses to be defrayed out of general revenue fund

(15) The expenses for the taking of such vote over and above the sum of $100 provided to be paid under this section shall be defrayed out of the general revenue fund of the Territories, such expenses to be certified to by the board for the district in which the vote has been taken; in the event however of the expenses of such vote being less than the $100 deposited as above, the balance thereof remaining after such expenses have been paid shall be returned to the parties depositing the same. C.O., c. 89, s. 124; 1907, c. 9, s. 35.

(16) The Lieutenant Governor in Council may fix a tariff of fees to be allowed the returning officer and others whose services may be required in the taking of a vote under this section.

(17) Notwithstanding anything herein contained the member of the board to whom the requisition for such poll has been presented, or in case of his death or resignation the member of the board appointed in his place and stead may without the presentation of any further or other requisition appoint such day as he may deem proper for the taking of the postponed poll in license districts numbers 2 and 3, and the validity, invalidity or other status of such requisition or of any other proceedings heretofore had or taken in regard to the taking of such poll shall be in no wise affected by the passing of this Act, but shall in all respects be governed by the provisions of *The Liquor License Ordinance* as in force at the time of the presentation of such requisition and all further proceedings hereafter to be had or taken in regard to the taking of such poll shall in all respects be governed by the provisions of the said Ordinance as amended by this Act:

Provided that if the decision of three-fifths of the persons voting thereon in either of such license districts is in favour of the prohibition of the sale of intoxicating liquors in their district and against the granting of licenses therefor such decision shall come into effect on the first day of July, 1913.

PARTIAL REPEAL OF NORTH-WEST TERRITORIES ACT.

Sections 92 to 100 of *N. W. T. Act* repealed

125. Sections 92 to 100 both inclusive of *The North-West Territories Act*, chapter 50 of *The Revised Statutes of Canada*, together with all amendments thereto in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to chapter 22 of the Act of the Parliament of Canada 54-55 Victoria intituled *An Act to amend the Acts respecting the North-West Territories* are hereby repealed except as to all that portion of Alberta north of a line drawn as follows: Commencing at the point of intersection of the western boundary of Alberta by the line between townships numbered fifty-seven and fifty-eight, thence east to the western boundary of range twenty-six west of the fourth meridian, thence north along the western boundary of the said range twenty-six to the line between townships numbered sixty-four and sixty-five and thence

Exception

east along the said line to the eastern boundary of Alberta, and except as to townships 57 and 58 in ranges 9 and 10 west of the fourth meridian in the Dominion lands system of survey; and it is declared that as to the said portions of the Territories the said sections of *The North-West Territories Act* remain in full force and effect:

Proclamation to bring into effect prohibitory clauses of *N. W. T. Act*

Provided that the Lieutenant Governor may by proclamation declare the provisions of the said sections 92 to 100 to be in force from a day to be mentioned in said proclamation in any part of that portion of the Territories specified in this section and thereupon the provisions of the said sections 92 to 100 shall be deemed to be re-enacted from the day so mentioned in respect of that part of the Territories specified in the said proclamation: C.O., c. 89, s. 125; 1903 (1st Session), c. 26, s. 15.

Provided that the Lieutenant Governor in Council may by proclamation declare that the said provisions of sections 92 to 100 shall no longer remain in force from and after a day to be mentioned in said proclamation in any portion of Alberta described therein, and from and after such date the said provisions of sections 92 to 100 shall be deemed to have been repealed in so far as the territory described in the said proclamation is concerned. 1906, c. 70, s. 2.

MEMBERS OF ASSEMBLY.

Members of Legislative Assembly

126. No member of the Legislative Assembly except he be a licensee shall be a party to any bond to be given under this Ordinance nor shall he be a party to any petition under this Ordinance. C.O., c. 89, s. 126.

Bottled liquors not to be mixed in the bottle and bottles not to be refilled by licensee

127. Bottled liquors procured by the licensee of a licensed hotel for the purpose of supplying the same to customers or guests shall be kept while on the licensed premises in the bottles in which such liquors are delivered to such licensee and in no case shall any other liquor or any substance or liquid be put into any such bottle and no bottle after being emptied of such bottled liquor shall be refilled either partially or wholly by the licensee of such licensed premises or any other person on his behalf for the purpose of supplying liquor or any substance or liquid to any customer or guest.

Use of false labels, etc., prohibited

(2) No licensee shall use or permit to be used any sign or label upon any bottle, cask or other vessel in which liquor is kept for sale upon the licensed premises, which does not correctly and truly state the nature of the contents of such bottle, cask or other vessel, or which is in any manner calculated to mislead a customer or guest as to the nature, description or quality of such contents.

Mixture of drugs, etc., with liquor prohibited

(3) No licensee or any other person shall for any purpose whatsoever mix or permit or cause to be mixed with any liquor sold or supplied by him on the licensed premises as a beverage any drug or any form of methylic alcohol or any crude, unrectified or impure form of ethylic alcohol or other deleterious substance or liquid.

Penalties

(4) Any person violating any of the foregoing provisions of this section shall be liable upon conviction for a first offence to a fine of not less than $20 and not more than $50 besides costs or to imprisonment for a period of three months, and upon

conviction for a second offence to a fine of not less than $50 nor more than $100 or to imprisonment for a period of six months, and upon conviction for a third offence to imprisonment for a period of twelve months.

Taking samples to see that law observed

(5) Any inspector or any special officer appointed by the Attorney General may at any time take from the liquors kept by any licensee upon the licensed premises sufficient thereof for the purpose of analysis to ascertain whether or not any of the provisions of this section have been violated, and such special officer shall, if required before taking such liquor, produce the authority under which he acts in writing signed or purporting to be signed by the Attorney General. 1907, c. 9, s. 36.

BARTENDERS' LICENSES.

Sec. 128 new

Bartender meaning of

128. The expression "bartender" as used in this section shall mean and include any person who sells or supplies liquor in the barroom or other place from which liquor is dispensed to any person whomsoever, in or upon any premises in respect of which a hotel license has been issued under this Ordinance.

(*a*) The expression "salesman" shall mean and include any person who supplies, sells, or takes orders for liquor in premises in respect of which a wholesale license has been granted, but it shall not include shippers, delivery men, bookkeepers, and other employees at such premises, who make or supervise sales to customers occasionally. 1914, c. 21, s. 1.

Employment of unlicensed bartenders prohibited

(2) No licensee of a licensed hotel shall employ any bartender or permit any person to act as such in or upon his licensed premises who is not during the whole time he is employed, or permitted so to act, the holder of a bartender's license, as provided by this section.

(*a*) No wholesale licensee shall employ or permit any person to act as a salesman, in or upon his licensed premises, unless such person is the holder of a valid salesman's license. 1914, c. 21, s. 1.

Penalty

(3) Any licensee who violates the preceding subsection shall for every day or portion of a day during which such violation continues, be liable to a penalty on summary conviction of not less than $10 and not more than $20, and in default of payment forthwith after conviction to imprisonment for a period not exceeding one month.

Acting a bartender without a license

(4) Any person who acts as a bartender or salesman without first having obtained a license as in this section provided shall be liable to the same penalties as those prescribed in the case of a licensee in the next preceding subsection mentioned, and in any prosecution brought under this subsection the onus of proving that he holds a bartender's or salesman's license shall rest upon the defendant. 1914, c. 21. s. 1.

Penalty for violation of law by licensed bartenders

(5) Any person having obtained a bartender's or salesman's license who shall sell or deliver or cause to be sold or delivered any liquor in contravention of any of the provisions of this Ordinance to any person whomsoever shall be liable to a penalty not exceeding $50, and in default of payment forthwith after conviction to imprisonment for one month. 1914, c. 21, s. 1.

Cancellation of licenses for offences

(6) In addition to any other penalty which may be imposed upon a bartender or salesman for any offence under this Ordinance

the Attorney General may forthwith cancel the license of such bartender or salesman, who shall not thereafter be eligible to receive another bartender's or salesman's license, nor a license to sell liquor during the current license year, and upon conviction for a second offence of any nature within two years the license of such bartender or salesman shall *ipso facto* become void and he shall not thereafter be eligible to hold a bartender's or salesman's license or license to sell liquor for two years. 1914, c. 21, s. 1.

Licenses not to be issued to minors nor persons not of good character

(7) No bartender's or salesman's license shall be issued to any person who is not of the full age of twenty-one years and of good character. 1914, c. 21, s. 1

Nor to a female

(8) No bartender's or salesman's license shall be issued to any female. 1914, c. 21, s. 1.

Form of license fee

(9) The said licenses may be in the form N set out in schedule 1 to this Ordinance, and may, subject to the conditions in this section mentioned, be obtained at any time on application to the Attorney General on payment thereof of the sum of $25 and the production of a recommendation signed by at least two reputable residents of the province; provided, however, that the Attorney General may from any cause which he may consider sufficient refuse to issue such license: 1913 (2nd Session), c. 17, s. 16; 1914, c. 21, s. 1.

Provided further that a fee of $10 shall be paid for any renewal of a bartender's license. 1913 (2nd Session), c. 17, s. 16; 1914, c. 21, s. 1.

Term of license

(*a*) Such license shall only be valid during the currency of the license year in which it is issued, and shall expire on the last day of the month of June then next ensuing. 1914, c. 21, s. 1.

Endorsement of license by inspector of another district

(*b*) No bartender's or salesman's license shall be valid in any license district other than that for which the same was issued unless and until it has been endorsed by the inspector who resides nearest to the licensed premises where the holder was last employed, and such endorsement (for which no charge shall be made) shall give validity to such license in any one other license district, provided such license has not been cancelled prior to the endorsement, but such inspector may for any cause which he may consider sufficient withhold such endorsement subject to the approval of the Attorney General. 1914, c. 21, s. 1.

Record of licenses issued

(*c*) Every inspector who endorses a bartender's or salesman's license shall forthwith notify the Attorney General of such endorsement who shall cause a memorandum of the same to be entered in a book to be provided for the purpose and such entry as well as the entry of the issue of such license and of a memorandum that any such license has been cancelled shall be received in any court as *prima facie* evidence of the facts therein stated. Instead of the production of the book containing such entry the presiding justice may receive a certificate of any such entry as aforesaid purporting to be signed by the Attorney General without requiring proof of the signature of such Attorney General. 1914, c. 21, s. 1.

Production of license upon request of inspector

(*d*) Every licensed bartender or salesman shall produce his license forthwith on request to any inspector or other official appointed by the government of the province or to any constable or police officer and should such bartender or salesman refuse or neglect to make such production when required he shall be liable to a penalty not exceeding $10 and in default of payment forthwith after conviction to imprisonment for any period not exceeding ten days. 1913 (2nd Session), c. 17, s. 16; 1914, c. 21, s. 1.

Persons not required to have license

(10) Nothing in this section contained shall apply to or affect the sale or delivery of any liquor by the keeper of a licensed hotel or by any male member of his family of the full age of twenty-one years other than a domestic servant or other person in the employment of the licensee, nor shall anything in this section contained apply to or affect the delivery of liquor by any person in any place in a licensed hotel other than the bar room or place from which liquor is dispensed.

Temporary employment of unlicensed persons

(11) Notwithstanding anything in this section contained a licensee may in the case of a temporary emergency employ as bartender or salesman any male person of the full age of twenty-one years provided that such employment shall not be upon more than two days, not necessarily consecutive, in any one calendar month. 1909, c. 5, s. 3 (11); 1914, c. 21, s. 1.

SCHEDULE 1.

FORM A.

(*Section* 28.)

To the License Commissioners:

The petition of the undersigned humbly sheweth:

That your petitioner makes application for a *renewal* of (1) a (2)..... license to sell intoxicating liquors.....in the building occupied by your petitioner at.....in the electoral district of....., and described as (3).....

Your petitioner hath deposited with the proper officer the sum of..... dollars the fee payable for such application and produces herewith receipt for same.

(4) (Your petitioner produces also the recommendations of at least twenty out of the forty nearest householders to the said..... also his own affidavit and the affidavit of two respectable neighbors to prove his qualification to obtain a license.)

And your petitioner prays that a license may be granted him accordingly.

(1) *If a first application strike out the words in italics;*
(2) *Insert description of license as hotel or wholesale;*
(3) *Here give full description of premises;*
(4) *The words in parenthesis to be left out where form B not required.* C.O., c. 89, Schedule 1, Form A; 1907, c. 9, s. 40.

FORM B.

(*Sections* 28, 29, 34, 37, 38, 40.)

We, the undersigned, hereby severally declare that..... is personally known to us, that we are at least twenty of the forty householders nearest in a direct line to the.....wherein the applicant intends to sell intoxicating liquors as specified in his petition; that we have read or heard read to us the whole of this recommendation before signing it; and we recommend the applicant as a fit and proper person to obtain a license to sell intoxicating liquors.....in the to be occupied by the said applicant at in the electoral district of..... and we consider it for the convenience of the public that a license should be granted to the said applicant.

Name.	Date of signature	Distance in yards in a direct line from the proposed licensed premises.

I, the undersigned.....do certify that all the persons whose names are appended to the within recommendation are personally known to me and have signed the same in my presence and the date upon which each person signed the said recommendation is directly set opposite the name of each person respectively.

Dated at.....in the District of.....
this.....day of.....A.D. 1.....

A.B.,
J.P., or *Commr., etc.*

C.O., c. 89, Schedule 1, Form B; 1907, c. 9, s. 41.

FORM C.

(*Section* 28.)

I,.....applicant for a license to sell intoxicating liquors,.....make oath and say:

That I am of the full age of twenty-one years;

That I have never been convicted of any criminal offence subject to imprisonment for five years or upwards.

Sworn before me at
.....
in the district of.....
this.....
day of.....1...

A.B.,
A Justice of the Peace or *A Commissioner, etc.*

C.O., c. 89, Schedule 1, Form C.

FORM D.

(*Section* 28.)

We,.....and.....
do severally make oath and say:

That we are neighbors of....., applicant for a license to sell intoxicating liquors;

That he is personally known to us;

That he is of the full age of twenty-one years;

That he has never been convicted of any criminal offence subject to imprisonment for five years or upwards to our knowledge; and

That he is a man of good moral character and temperate habits.

Sworn by said.....
and.....
before me at.....
in the district of.....
this.....day of.....
1.....

A.B.,
A Justice of the Peace or *A Commissioner, etc.*

C.O., c. 89, Schedule 1, Form D.

FORM E.

(*Section* 47.)

FORM OF BOND BY APPLICANT FOR AN HOTEL OR WHOLESALE LICENSE.

Know all men by these presents that we.....
of.....and.....
of.....and.....
of.....are held and firmly bound unto His Majesty King George the Fifth, His Heirs and Successors as follows, that is to say: The said.....in the sum of five hundred dollars of good and lawful money of Canada, the said.....
in the sum of two hundred and fifty dollars of like good and lawful money and the said.....in the sum of two hundred and fifty dollars of like good and lawful money, for payment of which well and truly to be made we bind ourselves and each of us, our heirs, executors and administrators firmly by these presents.

Whereas the above bounden..... is about to obtain a license to keep a.....for the sale of liquor in the of..... The condition of this obligation is therefore such that if the said.....pay all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law now or hereafter to be in force relative to such.....license for the sale of liquor and does, performs and observes all the requirements thereof and conforms to all rules and regulations that are or may be established by competent authority in such behalf; then this obligation shall be null and void, otherwise it shall remain in full force, virtue and effect.

In witness whereof we have signed these presents with our hands and sealed them with our seals this.....day of.....
one thousand.....

Signed, sealed and delivered in presence of us }[L.S.]
.....[L.S.]
.....[L.S.]

FORM E. 1.

(*Section* 47.)

AFFIDAVIT OF SURETY.

We,.....of the.....
and.....of the.....
the securities in the within bond named do severally make oath and say as follows:

(1) I, the said....., for myself say that I am a householder residing at.....and that I am worth property situate in the North-West Territories to the amount of two hundred and fifty dollars over and above the exemptions allowed by law and what will pay my just debts.

(2) And I, the said....., for myself say that I am a householder residing at.....and that I am worth property situate in the North-West Territories to the amount of two hundred and fifty dollars over and above the exemptions allowed by law and what will pay my just debts.

The above named.....and.....
were severally sworn before me at.....this.....
day of.....19.....

A.B.,
A Justice of the Peace or *A Commissioner, etc.*

C.O., c. 89, Schedule 1, Form E; 1901, c. 33, s. 18; 1904, c. 14, s. 6.

FORM F.

(*Sections* 12 *and* 32.)

LICENSE.

Whereas.....of.....
in the district of.....has made application for a
.....license to sell intoxicating liquors.....
and it having been made to appear to the board of license commissioners that the said.....has complied with the provisions of the Ordinance in that behalf, this is to certify that the said hereby licensed as provided by law to sell intoxicating liquors in manner aforesaid at.....
said place of business from the.....day of.....
1....., until midnight on the.....day of.....
1.....

Dated this.....day of.....1.....

C.D.,
Attorney General.

C.O., c. 89, Schedule 1, Form F; 1900, c. 32, s. 1.

FORM G.

(*Sections* 36, 38 *and* 43.)

To the License Commissioners:

We the undersigned, do hereby protest against the granting of a license to sell intoxicating liquors as a.....to.....
for the following reasons: (*Here set forth reasons.*)

Name	Distance in yards in a direct line from the proposed licensed premises.	Date of signing

I, the undersigned,.....do certify that all persons whose names are appended to the above protest are personally known to me and have signed in my presence and that they are comprised within the twenty nearest householders to the.....for which has applied for a license and the date upon which each person signed the said protest is directly set opposite the name of each person respectively.

Dated at.....in the North-West Territories this day of.....A.D. 1.....

A.B.,
Justice of the Peace or *Commissioner, etc.*

C.O., c. 89, Schedule 1, Form G.

FORM H.

(*Section* 98.)

FORM OF DECLARATION OF FORFEITURE AND OF ORDER TO DESTROY LIQUOR SEIZED.

If in conviction, after adjudging penalty or imprisonment, proceed thus:

And I declare the said liquor and vessels in which the same is kept, to wit: Two barrels containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager beer and five bottles containing native wine (*or as the case may be*) to be forfeited to His Majesty.

Given under my hand and seal the day and year first above mentioned at, etc.

.....*J.P.*

C.O., c. 89, Schedule 1, Form H; 1901, c. 33, s. 18; 1904, c. 14, s. 7.

FORM I.

If by separate or subsequent order:

Canada:
North-West Territories. }
To Wit:

I, *E.F.*, one of His Majesty's justices of the peace in and for the North-West Territories, having on the.....day of..... one thousand.....at the..... of.....in the said North-West Territories, duly convicted *X.Y.*, of having unlawfully kept liquor without a license, do hereby declare the said liquor and vessels in which the same is kept, to wit: (*describe the same as above*) to be forfeited to His Majesty.

Given under my hand and seal this.....day of..... at the..... of.....in the said.....

E.F. [L.S.]

C.O., c. 89, Schedule 1, Form I; 1901, c. 33, s. 18; 1904, c. 14, s. 7.

FORM J.

(*Section* 120.)

Canada:
North-West Territories. } Be it remembered that on the..... day of..... A.D. 1..... complaint was made before the undersigned a justice of the peace in and for the said Territories:

That *A.B.* (*here set out the facts as stated in the complaint*), and now having duly heard the matter of the said complaint I do order that during the period of two years from the date hereof no licensee after notice of this order shall sell any liquor to the said *A.B.*

Given under my hand and seal this.....day of..... at the.....of.....in the said Territories.

.....*J.P.*

C.O., c. 89, Schedule 1, Form J; 1907, c. 9, s. 37.

FORM K.

(*Section* 121.)

NOTICE OF INTERDICTION.

Edmonton,.....1.....

A.B., of.....in the North-West Territories.

Sir,—

In pursuance of *The Liquor License Ordinance* you are hereby notified that *C.D.*, of.....in the District of..... labourer (*or as the case may be*) is interdicted from the use of intoxicating liquors, on order made by *G.H.*, a justice of the peace in and for the North-West Territories, bearing date the.....day of..... 1....., and you are required to govern yourself accordingly.

You are liable if during the period of two years from the date of said order you give, sell, purchase or procure to, for or on behalf of such prohibited person or for his or her use any liquor, upon conviction, to a penalty of not less than $50 nor more than $200 and in default of payment to not less than two months' nor more than twelve months' imprisonment, and if you are a licensee, forfeiture of license.

Your obedient servant,

F.E.,
Attorney General.

C.O., c. 89, Schedule 1, Form K; 1900, c. 32, ss. 1 and 20.

FORM L.

(*Section* 122.)

NOTICE OF INTERDICTION.

Take notice that under the provisions of section 122 of *The Liquor License Ordinance* I have been required by.....(*here state name and authority of person who has requested notice to be given*) to notify you that you are not during the period of one year from the date of this notice to directly or indirectly sell, give or deliver or suffer to be sold, given or delivered to (*here insert name and description of person*) any intoxicating liquor under a penalty of two hundred dollars and absolute forfeiture of your license.

Dated.....this.....day of..... A.D. 1.....

E.F.,
Inspector.

C.O., c. 89, Schedule 1, Form L; 1900, c. 32, s. 21; 1904, c. 14, s. 8.

FORM M.

(*Section* 122.)

NOTICE OF INTERDICTION.

To.....of.....

Take notice that under the provisions of section 122 of *The Liquor License Ordinance* and at the request of (*here state name and authority of person at whose request interdiction is made*) I have this day interdicted you from the use of intoxicating liquor for the space of one year from the date hereof. Failure on your part to observe this interdiction will render you liable to a penalty of $50, and in the event of your being found in a barroom or wholesale liquor store you may be arrested and fined a further sum of $50 for each such offence.

Dated at.....this.....day of 19.....

A.B.,
Inspector.

1904, c. 14, s. 9; 1907, c. 9, s. 38.

FORM N.

CANADA
PROVINCE OF ALBERTA.

This is to certify that....., is hereby authorized to act as bartender (*or* salesman *as the case may be*) within License District No.....for the year ending June 30, 19.....,.. subject to the provisions of the law in that behalf.

Dated at Edmonton this.....day of..... A.D. 19.....

.....
Deputy Attorney General.

1914, c. 21, s. 1.

SCHEDULE 2.

FORMS FOR DESCRIBING OFFENCES.

1. *Neglecting to keep license exposed.*

That *X.Y.*, having a license for sale by wholesale (*or* an hotel license) on unlawfully or wilfully (*or* negligently) omitted to expose the said license in his warehouse (*or* in the barroom of his hotel *as the case may be.*)

2. *Sale without license.*
That *X.Y.*, on the.....day of.....
in the year of our Lord one thousand.....
at.....in the.....
of.....unlawfully did sell liquor without the license therefor by law required.

3. *Keeping liquor without license.*
That *X.Y.*, on.....at.....
unlawfully did keep liquor for the purpose of sale, barter and traffic therein without the license therefor by law required.

4. *Sale of liquor on licensed premises during prohibited hours.*
That *X.Y.*, on.....at.....
in his premises (*or* on, *or* out of, *or* from his premises) being a place where liquor may be sold, unlawfully did sell, (*or* dispose of) liquor during the time prohibited by *The Liquor License Ordinance* for the sale of the same, without any requisition for medical purposes, as required by the said Ordinance, being produced by the vendee or his agent.

5. *Allowing liquor to be drunk on licensed premises during prohibited hours.*
That *X.Y.*, on.....at.....
in his premises, being a place where liquor may be sold by retail (*or* wholesale) unlawfully did allow (*or* permit) liquor to be drunk in such place during the time prohibited by *The Liquor License Ordinance* for the sale of the same by a person other than the licensee or some member of his family or a lodger in his house.

6. *Sale of less than one quart under wholesale license.*
That *X.Y.*, having a wholesale license on.....
at.....unlawfully did sell liquor in less quantity than one-half gallon (*or* one reputed quart bottle *or* two reputed pint bottles *as the case may be*).

7. *Allowing liquor to be consumed upon wholesale premises.*
That *X.Y.*, having a wholesale license on.....
at.....unlawfully did allow liquor sold by him (*or* in his possession) and for the sale of which a license is required, to be consumed within his premises (*or* within the building of which his premises forms part *or* within a building which communicates by an entrance with his premises) by a purchaser of such liquor (*or* by a person not usually resident within the building of which such premises forms a part).

8. *Illegal sale by druggists.*
That *X.Y.*, being a chemist (*or* druggist) on.....
at.....did unlawfully sell liquor for other than strictly medicinal purposes (*or* sell liquor in packages of more than six ounces at one time without a certificate from any registered medical practitioner *or* sell liquor without recording the same), as required by *The Liquor License Ordinance*.

9. *Keeping a disorderly house.*
That *X.Y.*, being the keeper of (*house of public entertainment*) situate in the town of.....in the district of.....
on.....in his said hotel unlawfully did sanction (*or* allow) gambling, (*or* riotous *or* disorderly conduct) in the said hotel.

10. *Harbouring constables on duty.*
That *X.Y.*, being licensed to sell liquor at.....
on.....unlawfully and knowingly did harbour (*or* entertain *or* suffer to abide and remain) on his premises *O.P.*, a constable belonging to a police force, during a part of the time appointed for his being on duty, and not for the purpose of quelling a disturbance or restoring order or executing his duty.

11. *Compromising or compounding a prosecution.*
That *X.Y.*, having violated a provision of *The Liquor License Ordinance*,
on.....at.....
unlawfully did compromise (*or* compound, *or* settle, *or* offer, *or* attempt to compromise, compound *or* settle), the offence with *A.B.*, with the view

of preventing any complaint being made in respect thereof (*or* with the view of getting rid of *or* of stopping *or* of having the complaint made in respect thereof dismissed *as the case may be*).

12. *Being concerned in compromising a prosecution.*
That *X.Y.*, on.....at.....
unlawfully was concerned in (*or* a party to) a compromise (*or* a composition, *or* a settlement) of an offence committed by *O.P.* against a provision of *The Liquor License Ordinance.*

13. *Refusing to admit policeman.*
That *X.Y.*, on.....at.....
being in (*or* having charge of) the premises of *O.P.* being a place where liquor is sold (*or* reputed to be sold) unlawfully did refuse (*or* fail) to admit (*or* did obstruct *or* attempt to obstruct) *E.F.*, an officer demanding to enter in the execution of his duty (*or* did obstruct *or* attempt to obstruct *E.F.*, an officer making searches in the said premises and in the premises connected with such place.)

14. *Officer refusing to prosecute.*
That *X.Y.*, being a police officer (*or* constable *or* inspector of licenses) in and for the.....knowing that *O.P.* had on at.....committed an offence against a provision of *The Liquor License Ordinance*, unlawfully and wilfully did and still does neglect to prosecute the said *O.P.* for his said offence.

15. *Refusing or failing to supply lodging, meals or accommodation to travellers.*
That *F.X.*, being the keeper of an hotel in respect of which an hotel license has been duly issued and is in force, on.....at.....
unlawfully failed or refused personally (*or* through someone acting on his behalf) to supply lodgings, meals or accommodation to a traveller as required by *The Liquor License Ordinance.*

16. *Selling liquor to anyone under twenty-one years of age.*
That *X.Y.*, at.....on.....
unlawfully did sanction (*or* allow) to be supplied in his licensed premises by purchase (*or* otherwise) liquor to a person under the age of twenty-one years not being a resident on the premises or a *bona fide* guest, lodger or traveller.

17. *Allowing internal communication between licensed and unlicensed premises.*
That *X.Y.*, at.....on.....
unlawfully did sanction (*or* allow) to be made or used an internal communication between his licensed premises and unlicensed premises which are used for public entertainments and resort (*or as a refreshment house*).

18. *Obtaining liquor by false representations.*
That *X.Y.*, at.....on.....
unlawfully did by falsely representing himself to be a lodger, buy or obtain (*or* attempt to buy or obtain) at.....liquor during the period during which such premises are required to be closed in pursuance of *The Liquor License Ordinance.*

19. *Interdiction.*
That *X.Y.*, by excessive drinking of liquor misspends, wastes (*or* lessens *if the fact be so*) his estate (*or* greatly injures his health *or* endangers *or* interrupts the peace and happiness of his family). C.O., c. 89, Schedule 2.

FORM M.

FORM OF INFORMATION LAID OR COMPLAINT MADE, AS THE CASE MAY BE.

Canada:
North-West Territories.
To Wit:

The information of *A.B.*, of the.....
.....of.....in
the.....of.....laid
(*or* complaint made *as the case may be*) upon oath (*or* affirmation) before me *C.D.*, one of His Majesty's justices of the peace in and for the North-

West Territories, the.....day of.....
A.D. one thousand.....
The said informant says he is informed and believes that *X.Y.*, on the day of.....A.D. one thousand.....at the..... in the.....of.....unlawfully did sell liquor without the license therefor by law required (*or as the case may be*).

Laid, sworn (*or* affirmed), and signed before me the day and year, and at the place first above mentioned.

C.D.,
J.P.

A.B.

C.O., c. 89, Schedule 2, Form M; 1901, c. 33, s. 18.

FORM N.

Form of Information for Second, Third or Fourth Offence.

Canada:
North-West Territories.
To Wit:

The information of *A.B.*, of, etc., laid upon oath (*or* affirmation) before me, *C.D.*, one of His Majesty's justices of the peace in and for the North-West Territories, the.....day of..... A.D. one thousand.....
The said informant says he is informed and believes that *X.Y.*, on..... at.....(*describe last offence*):
And further that the said *X.Y.* was previously, to wit: on the..... day of.....A.D. 1....., at the..... of....., before *E.F.*, one of His Majesty's justices of the peace in and for the North-West Territories, duly convicted of having on the.....day of.....1....., at the.....of..... in the.....of.....unlawfully sold liquor without the license therefor required by law (*or as the case may be*);
And further that the said *X.Y.*, was previously, to wit: on the..... day of.....A.D. 1....., at the..... of.....in the..... of....., before, etc., (*as in preceding paragraph*) again duly convicted of having on the.....day of A.D. 1..... at the..... of.....in the..... of....., having a wholesale license, unlawfully allow liquor to be consumed within a building which communicates by an entrance within his premises by a person not usually resident within the building of which such premises form a part (*or as the case may be*);
And further that the said *X.Y.*, was previously, to wit: on the..... day of.....A.D. 1....., in the..... of....., before, etc., (*see above*) again duly convicted of having on the.....day of.....A.D. 1....., at the.....of..... in the.....of..... (being in charge of the premises of *O.P.*, a place where liquor was reputed to be sold) unlawfully failed to admit *E.F.*, an officer demanding to enter in the execution of his duty (*or as the case may be*).
And the informant says that the offence hereinbefore firstly charged against the said *X.Y.* is his fourth (*or as the case may be*) offence against *The Liquor License Ordinance.*

Laid, sworn (or affirmed) and signed before me the day and year and at the place first above mentioned.

C.D.
J.P.

A.B.

C.O., c. 89, Schedule 2, Form N; 1901, c. 33, s. 18.

FORM O.

SUMMONS TO WITNESSES.

Canada:
North-West Territories.
To Wit:

To *J.K.*, of the.....of.....
in the.....of.....

Whereas information has been laid before me *C.D.*, one of His Majesty's justices of the peace in and for the North-West Territories that *X.Y.*, being a druggist, on the.....day of.....A.D. 1....., at the.....of.....
in the.....of.....unlawfully did sell liquor for other than strictly medicinal purposes (*or as the case may be*) and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter;

These are to require you to be and appear on.....the day of.....A.D. 1....., at o'clock in the noon at the.....
in the.....of.....before me or such justice or justices of the peace as may then be there to testify what you know concerning the said charge so made against the said..... as aforesaid (and also to bring with you and there and then to produce all and every invoices, day books, cash books, or ledgers and receipts, promissory notes or other security relating to the purchase or sale, or sale of liquor by the said *X.Y.*, and all other books and papers, accounts, deeds and other documents in your possession, custody or control relating to any matter connected with the said prosecution). Herein fail not.

Given under my hand and seal this.....day of.....
A.D. 1....., at the.....of.....
in the.....of.....

C.D.,
J.P. [L.S.]

C.O., c. 89, Schedule 2, Form O; 1901, c. 33, s. 18.

FORM P.

FORM OF CONVICTION FOR FIRST OFFENCE.

Canada:
North-West Territories.
To Wit:

Be it remembered that on the.....day of..... A.D. one thousand.....
at the.....of.....
in the.....of.....*X.Y.*, is convicted before me, *E.F.*, one of His Majesty's justices of the peace in and for the North-West Territories, for that he, the said *X.Y.*, on the..... day of.....A.D. one thousand.....
at the.....of.....
in the.....in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by *The Liquor License Ordinance* for the sale of the same without any requisition for medicinal purposes as required by the said Ordinance being produced by the vendee or his agent (*or as the case may be*) *A.B.* being informant, and I adjudge said *X.Y.* for his said offence to forfeit and pay the sum of..... dollars to be paid and applied according to law, and also to pay to the said *A.B.* the sum of.....dollars for his costs in this behalf, and if the said several sums be not paid forthwith, then* I order the said sums to be levied by distress and sale of the goods and chattels of the said *X.Y.*; in default of sufficient distress in that behalf* (*or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks say* inasmuch as it has now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said *X.Y* and his family, *or* that the said X.Y. has no goods or chattels whereon to levy the said several sums by distress), I adjudge the said *X.Y.* to be

imprisoned in the common gaol at.....in the said and there to be kept for the space of..... unless the said sums and the costs and charges of conveying the said *X.Y.* to the said common gaol shall be sooner paid.

Given under my hand and seal the day and year first above mentioned at the.....of.....in the aforesaid.

C.D., [L.S.]
J.P.

C.O., c. 89, Schedule 2, Form P; 1901, c. 33, s. 18.

FORM Q.

Form of Conviction for a Third Offence.

Canada:
North-West Territories.
To Wit:

Be it remembered that on the.....day of..... in the year of our Lord one thousand..... at.....of.....in the *X.Y.* is convicted before the undersigned *C.D.*, one of His Majesty's justices of the peace in and for the said Territories for that the said *X.Y.* on the day of.....A.D. one thousand at..... in the said.....(*as the case may be*) having violated a provision of *The Liquor License Ordinance* unlawfully did attempt to settle the offence with *A.B.* with the view of having the complaint made in respect thereof dismissed (*or as the case may be*);

And it appearing to me that the said *X.Y.* was previously, to wit: on the day of.....A.D. 1....., at the.....of.....before, etc., duly convicted of having on the.....day of..... A.D. 1....., at the.....of..... unlawfully sold liquor without the license therefor by law required (*or as the case may be*);

And it also appearing to me that the said *X.Y.* was previously, to wit: on the.....day of.....A.D. 1....., at the.....of.....before, etc., (*see above*) again duly convicted of having on the..... day of.....A.D. 1....., at the..... being the keeper of licensed premises situate in the said..... of.....unlawfully allowed gambling in his said licensed premises (*or as the case may be*);

I adjudge the offence of the said *X.Y.*, hereinbefore firstly mentioned, to be his third offence against *The Liquor License Ordinance* (*A.B.* being the informant) and I adjudged the said *X.Y.* for his third offence to be imprisoned in the common gaol of the said.....of..... at.....in the said..... of.....there to be kept at hard labour for the space of three calendar months (*or as the case may be*).

Given under my hand and seal the day and year first above mentioned, at.....in the..... of.....

C.D.[L.S.]
J.P.

C.O., c. 89, Schedule 2, Form Q; 1901, c. 33, s. 18.

FORM R.

WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A PENALTY IS IMPOSED.

Canada:
North-West Territories.
To Wit:

To all or any of the constables and other peace officers in the.....
of.....and the keeper of the.....
common gaol of the said.....at.....
in the.....

Whereas *X.Y.*, late of the.....of.....
in the said.....was on this day convicted before the undersigned *C.D.*, one of His Majesty's justices of the peace in and for the North-West Territories, for that he, the said *X.Y.*, on.....
at.....unlawfully did sell liquor without the license therefor by law required (*state offence as in the conviction*) (*A.B.* being the informant) and it was thereby adjudged that the said *X.Y.* for his said offence should forfeit and pay the sum of.....(*as in conviction*) and should pay to the said *A.B.* the sum of.....for his costs in that behalf;

And it was thereby further adjudged that if the said several sums should not be paid forthwith the said *X.Y.* should be imprisoned in the common gaol at.....in the said Territories there to be kept at hard labour for the space of.....unless the said several sums and the costs and charges of conveying the said *X.Y.* to the said common gaol should be sooner paid;

And whereas the said *X.Y.* has not paid the several sums or any part thereof although the time for payment thereof has elapsed;

[*If a distress warrant issued and was returned no goods or not sufficient goods, say:*

And whereas afterwards on the.....day of.....
A.D. 1....., I, the said justice, issued a warrant to the said constable or peace officer or any of them to levy the said several sums of.....
of.....and.....by distress and sale of the goods and chattels of the said *X.Y.*;

And whereas it appears to me as well by the return of the said warrant of distress by the constable who had the execution of the same or otherwise that the said constable has made diligent search for the goods and chattels of the said *X.Y.* but that no sufficient distress whereon to levy the said sums could be found.]

[*Or where the issuing of a distress warrant would be ruinous to the defendant and his family or if it appears that he has no goods whereon to levy a distress then instead of the foregoing recitals of the issue and return of the distress warrant, etc., say:*

And whereas it has been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said *X.Y.* and his family *or* that the said *X.Y.* has no goods or chattels whereon to levy the said sums by distress, (*as the case may be*)];

These are therefore to command you, the said constables or peace officers or any of you, to take the said *X.Y.* and him safely convey to the common gaol at.....in the.....
of.....and there deliver him to the said keeper thereof together with this precept;

And I do hereby command you, the said keeper of the said common gaol, to receive the said *X.Y.* into your custody in the said common gaol there to imprison and keep him for the space of.....unless the said several sums and all the costs and charges of the said distress, amounting to the sum of.....and of the commitment and conveying of the said *X.Y.* to the said common gaol, amounting to the further sum of....., shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal this.....day of.....
A.D. 1....., at.....

C.D., [L.S.]
J.P.

C.O., c. 89, Schedule 2, Form R; 1901, c. 33, s. 18.

TITLE XIII.

MISCELLANEOUS.

CHAPTER 90.

An Ordinance respecting Insane Persons.

(C.O., c. 90.)

Chapter 7, 1907, substituted.

CHAPTER 91.

An Ordinance to Prevent the Profanation of the Lord's Day.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Prohibition of business and labour on Sunday

1. No merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever shall on the Lord's day sell or publicly show forth or expose or offer for sale or purchase any goods, chattels or other personal property or any real estate whatsoever, or do or exercise any worldly labour, business or trade of his ordinary calling; travelling or conveying travellers or Her Majesty's mails, selling drugs and medicines and other works of necessity and works of charity only excepted. C.O., c. 91, s. 1.

Exceptions

Games and amusements prohibited

2. No person on that day shall play at billiards or pool in any public room or run races on horseback or in vehicles of any sort or discharge fire arms or engage in any game or games in any public place, or engage in hunting or in pursuit of game; except that any traveller, family or other person in a state of actual want may engage in hunting or kill game to satisfy his or their immediate wants. C.O., c. 91, s. 2.

Contracts made on Sunday to be void

3. All sales and purchases and all contracts and agreements for sale or purchase of any real or personal property whatsoever made by any person or persons on the Lord's day shall be utterly null and void. C.O., c. 91, s. 3.

Penalty

4. Any person violating any of the provisions of this Ordinance shall be guilty of an offence and upon summary conviction thereof be liable to a fine not exceeding $100 and costs of prosecution. C.O., c. 91, s. 4.

N.B.—Proceedings on this subject should be taken under The Lord's Day Act of Canada. (Revised Statutes of Canada, Chapter 153.)

CHAPTER 92.

An Ordinance respecting the Use of Tobacco by Minors.

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Sale of tobacco to minors under sixteen years of age prohibited

1. Any person who either directly or indirectly sells or gives or furnishes to a minor under sixteen years of age cigarettes, cigars or tobacco in any form shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than $1 or more than $10 with or without costs of prosecution, or to imprisonment with or without hard labour for any term not exceeding ten days, or to both fine with or without costs and imprisonment to the said amount and for the said term in the discretion of the convicting magistrate; and in case of a fine or a fine and costs being awarded and of the same not being upon conviction forthwith paid the justice may commit the offender to the common gaol there to be imprisoned for any term not exceeding ten days unless the fine and costs are sooner paid. C.O., c. 92, s. 1.

Exception written request of parents, etc.

2. This Ordinance shall not apply to a sale to the minor under a written request or order of his parent, lawful guardian or employer. C.O., c. 92, s. 2.

Presumption of age

3. A person who shall appear to the magistrate to be under sixteen years of age shall be presumed to be under that age unless it is shown by evidence that he is in fact over that age. C.O., c. 92, s. 3.

Penalty for procuring tobacco by minor

4. Any person except as provided in section 2 of this Ordinance to whom the sale of tobacco has been prohibited under section 1 of this Ordinance who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any cigarettes, cigars or tobacco in any form shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $2 and in default of payment to imprisonment for a period not exceeding one month. C.O., c. 92, s. 4.

Limitation of Ordinance

5. The provisions of this Ordinance shall only apply to municipalities and villages. C.O., c. 92, s. 5.

CHAPTER 93.

An Ordinance respecting the General Trust Corporation of Canada.

(C.O., c. 93.)

NOTE.—A Private Ordinance.

CHAPTER 94.

An Ordinance to Declare and Amend the Law of Partnership.

(Chapter 7 of 1899.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Partnership Ordinance* 1899."

INTERPRETATION.

Interpretation

2. In this Ordinance unless the context otherwise requires—

Business

1. The expression "business" includes every trade, occupation or profession;

Court
Judge in chambers

2. "Court" shall mean the Supreme Court of the North-West Territories, and any judge of the court may at any time, whether sitting in chambers or in court, exercise all the powers conferred by this Ordinance upon the court.

PARTNERSHIPS GENERALLY.

Nature of Partnership.

Partnership defined

3. Partnership is the relation which subsists between persons carrying on a business in common with a view of profit.

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Territories is not a partnership within the meaning of this Ordinance.

Rules for determining existence of partnership

4. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived;

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such share, or of a payment contingent on or varying with the profits of the business, does not of itself make him a partner in the business; and in particular—

(*a*) The receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;

(*b*) A contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;

(*c*) A person being the widow or child of a deceased partner and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;

(*d*) The advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing, and signed by or on behalf of all the parties thereto;

(*e*) A person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the businees is not by reason only of such receipt a partner in the business or liable as such.

In case of assignment for benefit of creditors, etc. postponement of rights of pe[illegible] lending or selling in consideration of share of profits

5. In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in the last foregoing section, or of any buyer of a goodwill in consideration of a share of the profits of the business, making an assignment for the benefit of his creditors, entering into an arrangement to pay his creditors less than one hundred cents in the dollar, or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

Meaning of firm and firm name

6. Persons who have entered into partnership with one another are for the purposes of this Ordinance called collectively a firm, and the name under which their business is carried on is called the firm name.

Relations of partners to persons dealing with them.

Power of partner to bind the firm

7. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority or does not know or believe him to be a partner.

Partners bound by acts on behalf of firm

8. An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any person thereto authorized, whether a partner or not, is binding on the firm and all the partners:

Provided that this section shall not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land, or negotiable instruments.

Partner using credit of firm for private purposes

9. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partner or partners; but this section does not affect any personal liability incurred by an individual partner.

Effect of notice that firm will not be bound by acts of partner

10. If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect of persons having notice of the agreement.

Liability of partner

11. Every partner in a firm is liable jointly with the other partners, for all debts and obligations of the firm incurred while he is a partner; and after his death his estate is also severally liable, in a due course of administration, for such debts and obligations, so far as they remain unsatisfied but subject to the prior payment of his separate debts.

Liability of firm for wrongs

12. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act.

Misapplication of money or property received for or in custody of firm

13. In the following cases, namely—

(*a*) Where one partner acting within the scope of his apparent authority receives the money or property of a third person and misapplies it; and

(*b*) Where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm, the firm is liable to make good the loss.

Liability for wrongs, joint and several

14. Every partner is liable jointly with his co-partners and also severally for everything for which the firm while he is a partner therein becomes liable under either of the two last preceding sections.

Improper employment of trust property for partnership purposes

15. If a partner, being a trustee, improperly employs trust property in the business or on account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein:

Provided as follows:

1. This section shall not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and

2. Nothing in this section shall prevent trust money from being followed and recovered from the firm if still in its possession or under its control.

Persons liable by holding out

16. Every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

(2) Provided that where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner's name as part thereof shall not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death.

Admissions and representations of partners

17. An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm.

Notice to acting partner to be notice to firm

18. Notice to any partner who habitually acts in the partnership business, of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Liability of incoming and outgoing partners

19. A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities, by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

Revocation of continuing guaranty by change in firm

20. A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which the guaranty was given.

Relations of partners to one another.

Variation by consent of terms of partnership

21. The mutual rights and duties of parties, whether ascertained by agreement or defined by this Ordinance, may be varied by the consent of all the partners, and such consent may be either expressed or inferred from a course of dealing.

Partnership property

22. All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Ordinance partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(2) Provided that the legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(3) Where co-owners of an estate or interest in any land not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits, to be used in like manner, the land or estate so purchased belongs to them, in the absence of an agreement to the contrary, not as partners, but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase.

Property bought with partnership money

23. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

Land held as partnership property to be treated as personal estate

24. Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners (including the representatives of a deceased partner), as personal or movable and not real estate.

Procedure against partnership property for a partner's separate judgment debt

25. After the commencement of this Ordinance a writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The court, or a judge thereof, may, in chambers, on application by summons by any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing), and of any other money which may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner or which the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same.

Rules as to interests and duties of partners subject to special agreement

26. The interest of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules:

1. All the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards

the losses, whether of capital, or otherwise, sustained by the firm;

2. The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him—

(*a*) In the ordinary and proper conduct of the business of the firm; or,

(*b*) In or about anything necessarily done for the preservation of the business or property of the firm;

3. A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe, is entitled to interest from the date of the payment or advance;

4. A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;

5. Every partner may take part in the management of the partnership business;

6. No partner shall be entitled to remuneration for acting in the partnership business;

7. No person may be introduced as a partner without the consent of all existing partners;

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners;

9. The partnership books are to be kept at the place of business of the partnership (or the principal place, if there is more than one), and every partner may, when he thinks fit, have access to and inspect and copy any of them.

Expulsion of partner

27. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners.

Retirement from partnership at will

28. Where no fixed term has been agreed upon for the duration of the partnership, or if a partnership is continued after a fixed term has expired, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners.

(2) Where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, shall be sufficient for this purpose.

Where partnership for term continued over, continuance on old terms presumed

29. Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

Partners to render accounts, etc.

30. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Accountability of partners for private profits

31. Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up either by any surviving partner or by the representatives of the deceased partner.

Partner competing with firm to account, etc.

32. If a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business.

Rights of assignee of share in partnership

33. An assignment by any partner of his share in the partnership, either absolute or by way of mortgage, encumbrance or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share or profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agree to by the partners.

(2) In case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

(3) In this section "assignee" shall include "mortgagee" or "encumbrancee."

Dissolution of partnership and its consequences.

Dissolution by expiration of notice

34. Subject to any agreement between the partners, a partnership is dissolved—

(*a*) If entered into for a fixed term, by the expiration of that term;

(*b*) If entered into for a single adventure or undertaking by the termination of that adventure or undertaking;

(*c*) If entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership.

In the last mentioned case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice.

Dissolution by death, assignment in trust or charge

35. Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death of any partner, or by his assignment of his property in trust for the benefit of his creditors.

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt.

Dissolution by illegality of partnership

36. A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

Dissolution by the court

37. On application by a partner the court may decree a dissolution of the partnership in any of the following cases:

(*a*) When a partner is shown to the satisfaction of the court to be of permanently unsound mind, in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene or by any other partner;

(*b*) When a partner other than the partner suing becomes in any other way permanently incapable of performing his part of the partnership contract;

(*c*) When a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the court, regard being had to the nature of the business, is calculated to prejudicially affect the carrying on of the business;

(*d*) When a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;

(*e*) When the business of the partnership can only be carried on at a loss;

(*f*) Whenever in any case circumstances have arisen which, in the opinion of the court, render it just and equitable that the partnership be dissolved.

Rights of persons dealing with firm against apparent members of firm

38. Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) The filing of a declaration under section 12 of chapter 45 of The Consolidated Ordinances, 1898, and the publication of the same in at least two consecutive issues of the gazette, shall be notice of dissolution as to persons who had not dealings with the firm before the date of filing such declaration and publication.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively.

Rights of partner to give notice of dissolution

39. On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

Continuing authority of partners for purposes of winding up

40. After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so

far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise.

Rights of partners as to application of partnership property

41. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the court to wind up the business and affairs of the firm.

Appointment of premium when partnership prematurely dissolved

42. Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless—

(*a*) The dissolution is, in the judgment of the court, wholly or chiefly due to misconduct of the partner who paid the premium; or

(*b*) The partnership has been dissolved by an agreement containing no provisions for a return of any part of the premium.

Rights when partnership dissolved for fraud or misrepresentation

43. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled—

(*a*) To a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and is

(*b*) To stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and

(*c*) To be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm.

Rights of outgoing partner in certain cases to share profits made after dissolution

44. Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since the dissolution as the court may

find to be attributable to the use of his share of the partnership assets, or to interest on the amount of his share of the partnership assets.

(2) Provided that where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any further or other share or profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

Retiring or deceased partner's share to be a debt

45. Subject to any agreement between the partners, the amount due, from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

Rules for distribution of assets on final settlement of accounts

46. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

1. Losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they are entitled to share profits;

2. The assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:

(*a*) In paying the debts and liabilities of the firm to persons who are not partners therein;

(*b*) In paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;

(*c*) In paying to each partner rateably what is due from the firm to him respect of capital;

(*d*) The ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

LIMITED PARTNERSHIPS.

Limited partnerships may be formed

47. Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Territories may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned.

Of whom to consist

48. Such partnerships may consist of one or more persons who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners.

Liability of general and special partner

49. General partners shall be jointly and severally responsible as general partners are by law, but a special partner shall not be liable for the debts of the partnership except in respect of the amounts by him contributed to the capital.

General partners only to transact business, etc.

50. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same.

Certificate to be signed

51. The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain—

Contents of

1. The name or firm under which the partnership is to be conducted;

2. The general nature of the business intended to be transacted;

3. The names of all the general and special partners interested therein distinguishing which are general and which are special partners, and their usual places of residence;

4. The amount of capital which each special partner has contributed;

5. The period at which the partnership is to commence and the period at which it is to terminate.

Form of

52. The certificate shall be in the words or to the effect of form A given in the schedule to this Ordinance and shall be signed by the several persons performing the partnership, before a notary public, who shall duly certify the same.

Where to be filed

53. The certificate so signed and certified shall, when the principal place of business of the partnership is or is to be situate within the district of a deputy clerk of the Supreme Court, be filed in the office of such deputy clerk, otherwise it shall be filed in the office of the clerk of the said court for the judicial district in which such principal place of business is or is to be situate, and the certificate shall be recorded by such clerk or deputy

To be recorded

clerk at full length in a book to be kept for that purpose and open to public inspection.

Fees for filing and searches

54. For filing and recording each such certificate the clerk or deputy clerk shall be entitled to receive the sum of twenty-five cents, and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each such search.

Partnerships not formed until certificate filed

55. No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed; and if any false statement is made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners.

Certificates of continuance

56. Every renewal or continuance of a limited partnership beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner herein required for its original formation; and every such partnership otherwise renewed or continued shall be deemed a general partnership.

What alterations to be deemed dissolution

57. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section.

Firm name

58. The business of a limited partnership shall be conducted under a firm name in which the names of the general partners or some one of them only shall be used; and if the name of a special partner is used in such firm name with his privity he shall be deemed a general partner.

Liability of general partners to actions

59. Actions in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner.

Restrictions upon stock of special partners

60. No part of the sum which a special partner has contributed to the capital shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest any profits remain to be divided, he may also receive his portion of such profits.

When special partner liable to refund

61. If it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner, receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital, with interest.

Privileges of special partners

62. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management, but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions he shall be deemed a general partner.

General partners liable to account

63. The general partners shall be liable to account to each other and to the special partners for their management of the concern in like manner as other partners.

Creditors preferred to special partners

64. In case of the insolvency of the partnership no special partner shall under any circumstances be allowed to claim as creditor until the claims of all the other creditors of the partnership have been satisfied.

No premature dissolution without notice, etc.

65. No dissolution of a limited partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was recorded, and has been published once in each week for three weeks in a newspaper published in the district where the partnership has its principal place of business and for the same time in *The North-West Territories Gazette*.

Limited partnerships ss. 2-46 subject to special provisions

66. The provisions of the sections of this Ordinance numbered from 2 to 46, both inclusive, shall as regards limited partnerships be subject to the special provisions herein contained regarding such partnerships.

SUPPLEMENTAL.

Saving for rules of equity and common law

67. The rules of equity and of common law applicable to partnership shall continue in force except so far as they are inconsistent with the express provisions of this Ordinance.

Commencement of Ordinance

68. This Ordinance shall come into operation on the first day of July, one thousand eight hundred and ninety-nine.

SCHEDULE.

FORM A.

CERTIFICATE OF PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B.D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A.B.*) residing usually at..... and (*C.D.*) residing usually at.....as general partners; and (*E.F.*) residing usually at....., and (*G.H.*) residing usually at.....as special partners, the said (*E.F.*) having contributed $.....and the said (*G.H.*) $..... to the capital.

The said partnership commenced on the.....day of 1..... and terminates on the..... day of.....1.....

Dated this.....day of.....A.D. 1.....

(*Signed*) *A.B.*
C.D.
E.F.
G.H.

Signed in the presence of me,
L.M.
Notary Public.

CHAPTER 95.

An Ordinance respecting Stock Inspection.

Repealed 1915, Chapter 11.

CHAPTER 96.

An Ordinance respecting the Remission of Certain Penalties.

(1900, c. 9.)

Chapter 3, 1908, substituted.

CHAPTER 97.

An Ordinance respecting Assignments for the General Benefit of Creditors.

(1900, c. 11.)

Chapter 6, 1907, substituted.

CHAPTER 98.

An Ordinance to Secure Compensation to Workmen.

(Chapter 13 of 1900.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Short title

1. This Ordinance may be known and cited as "*The Workman's Compensation Ordinance.*"

Negligence of fellow-workman no defence in action against employer

2. It shall not be a good defence in law to any action against an employer or the successor or legal representative of an employer for damages for the injury or death of an employee of such employer that such injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee any contract or agreement to the contrary notwithstanding.

CHAPTER 99.

An Ordinance to Legalize Certain Municipal Grants for Patriotic Purposes.

(Chapter 24 of 1900.)

Preamble

WHEREAS the councils of certain municipalities in the Territories have at different times within the past year made grants of money to or in aid or for the benefit of Canadian troops departing for service in Her Majesty's war in South Africa or their families or otherwise in connection with the said war;

And whereas doubts have arisen as to the power of the said councils to make such grants and the legality thereof;

And whereas it is advisable to set such doubts at rest;

Therefore the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Certain patriotic grants confirmed

1. All grants of money heretofore or hereafter made by the council of any municipality in the Territories for any loyal and patriotic purpose in connection with the war now being waged by Her Majesty in South Africa are hereby confirmed and declared to be valid and binding and within the powers of the said council.

CHAPTER 100.

An Ordinance for Expediting the Decision of Constitutional and other Legal Questions.

(1901, c. 11.)

Chapter 9, 1908, substituted.

CHAPTER 101.

An Ordinance respecting the Devolution of Estates.

(Chapter 13 of 1901.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Widow entitled to estate if no children

1. The property of any man hereafter dying intestate and leaving a widow but no issue shall belong to such widow absolutely and exclusively provided that prior to his death such widow had not left him and lived in adultery after leaving him.

(2) This section shall apply to the property of any person who died before the date of the coming into force of this Ordinance in case no portion of the estate of such person has been distributed.

Mother entitled if no wife, child or father

2. The mother of any person hereafter dying intestate without a wife, child or father shall be entitled to the whole of the property of such intestate.

Illegitimate children to take

3. In the distribution of personal property of any woman hereafter dying intestate her illegitimate children shall be entitled to the same rights as if they were legitimate.

Mother of illegitimate child to take

4. When an illegitimate child hereafter dies intestate without issue the mother of such child shall be entitled to any personal property which the said child was the owner of at the time of his death.

NOTE.—*See* chapter 19 of 1906.
See chapter 5 of 1915.

CHAPTER 102.

An Ordinance respecting Official Auditors.

(1901, c. 15.)

Chapter 10, 1909, substituted.

CHAPTER 103.

An Ordinance respecting Water, Gas, Electric and Telephone Companies.

(Chapter 21 of 1901.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Application

1. The provisions of this Ordinance shall apply to every company organized, incorporated or licensed under any Ordinance of the Territories for all or any of the purposes hereinafter set forth. C.O., c. 61, s. 88.

Gas to include natural gas

(2) Whenever the word "gas" is used in this Ordinance it shall be construed to include natural gas. 1911-12, c. 4, s. 6.

Consent of municipality or of Commissioner of Public Works required

2. No company shall be entitled to the benefit of this Ordinance until it has obtained the consent of the municipal corporation of the city or town within which the powers hereby given are to be exercised by such company; such consent to be by by-law and to be on such terms and conditions as the by-law may provide or where the purposes of the company require the exercise of any of the said powers in any area without the limits of any city or town the consent of the Commissioner of Public Works to the exercise of such powers within such area shall also be first had and obtained. C.O., c. 67, s. 89.

Powers of companies

3. The company may sell and dispose of meters and gas, water, electric or telephone fittings of every description for the use of any private or public building or for any establishment, company or corporation whatsoever as well as coke, coal tar and all and every the products of their works, refuse or residuum arising or to be obtained from the materials used or necessary for the manufacture of gas or electricity; and every company may let out to hire meters and gas, water, electric or telephone fittings of every kind and description at such rate and rents as may be agreed upon between the consumers or tenants and the company. C.O., c. 61, s. 90.

Disposal of surplus power

4. Any electric light company may lease to or enter into any contract with any person or persons or body corporate or politic for the use of any power, engines, wheels or machines run by water, steam, gas or in any other manner erected by such company for the purpose of running or operating electric light plant to the end and intent that such machinery and power may be utilized and employed during the hours when the same is not required for the purpose of furnishing electric light.

Company to file plans

4*a*. No company shall erect wires for the transmission of electricity for any purpose until it has filed with the Minister of Railways and Telephones plans showing the location of such

wires, their height above the ground and such other information as the Minister may from time to time require, nor until such plans have been approved by such Minister. 1911-12, c. 4, s. 6.

Laying mains and wires in streets

5. Subject to the terms of the consent referred to in section 2 hereof the company may break up, dig and trench and use so much and so many of any streets, squares, highways, lanes and public places as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity from the works of the company to the consumers or users thereof or make connection with the telephone system doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. C.O., c. 61, s. 91; 1911-12, c. 4, s. 6.

Company's rights regarding mains and pipes

6. When any company has laid down or erected mains, pipes, wires or conductors for the supply of gas, water, electricity or a telephone system through any of the streets, squares, or public places of any municipality no other person or persons, bodies politic or corporate shall without the consent of the company first had and obtained nor otherwise than on payment to the company of such compensation as may be agreed upon lay down or erect any main, pipe, wire or conductor for the supply of gas, water, electricity or telephone system within six feet of the company's mains, pipes, wires or conductors or if it be impracticable to cut trenches for such other mains or pipes at a greater distance than as nearly six feet as the circumstances of the case will admit. C.O., c. 61, s. 92.

Supplying parts of buildings having different owners or tenants

7. When there are buildings within the municipality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity or connect the telephone system to the property of or in the possession of another. C.O., c. 61, s. 93.

Breaking up passages, etc.

8. The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same doing as little damage as may be in the execution of the powers granted by this Ordinance. C.O., c. 61, s. 94.

Compensation

9. The company shall make satisfaction to the owners or proprietors of any building or other property or to the municipality or Commissioner of Public Works as the case may be for all damages caused in or by the execution of all or any of the said powers. C.O., c. 61, s. 95.

Company not to take private property till compensation ascertained

10. No company shall be entitled by virtue of this Ordinance to take possession or make use of private property or to do any work thereon until the amount to be paid for or in respect of

such property is ascertained by arbitration or otherwise and is paid or tendered to the parties entitled thereto or is paid into court for their benefit.

Location of works

11. The company shall locate and construct its gas or water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. C.O., c. 61, s. 96.

Limitations of powers of company

12. Nothing contained in this Ordinance shall authorize any company or any person acting under its authority to take, use or injure for the purpose of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house or nursery ground for trees or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the consent in writing of the owner or owners thereof first had and obtained. C.O., c. 61, s. 97.

Privileges of other companies

13. Nothing in this Ordinance shall authorize any company to interfere with or infringe upon any exclusive privilege granted to any other company. C.O., c. 91, s. 98.

Individual rights

14. Nothing in this Ordinance contained shall prevent any person from constructing any works for the supply of gas, water or electricity or for a telephone system to or on his own premises. C.O., c. 61, s. 99.

Exemption from distress and seizure

15. Neither the service nor the connecting pipes, wires or conductors of the company nor any meters, lustres, lamps, pipes, gas or water or electric or telephone fittings nor any other property of any kind whatsoever of the company shall be subject to or liable for rent or liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be or be in any way whatsoever liable to any person for the debt of any person to and for whose use and the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. C.O., c. 61, s. 100.

Company to supply buildings in line of supply on request

16. When a company has constructed works for supplying any municipality or municipalities with gas, water, electricity or telephones and the company is able so to do it shall be the duty of the company to supply all buildings situate upon land lying along the line of any supply pipe or wire upon the same being requested by the owner, occupant or other person in charge of any such building.

Company may require security from consumers

17. A company before supplying water, gas, electricity, or telephones to any building or as a condition to its continuing to supply the same may require any consumer to give reasonable security for the payment of the proper charges of the company therefor or for carrying the water, gas, electricity or telephone system into such building.

Liability for failure of supply not affected

18. Nothing in the next preceding two sections contained shall be construed so as in any way to affect the liability of any company in respect of damages on account of any failure of supply through mischance, accident or mismanagement but the position of the company in respect thereof shall remain as if the said two sections had not been passed.

PROHIBITION AND PENALTIES.

Nonpayment of rates, etc.

19. If any person supplied by the company with gas, water, electricity or telephone neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof the company or anyone acting under its authority on giving forty-eight hours' notice to the person supplied may stop the supply of gas, water or electricity from entering or being supplied to or disconnect the telephone system from the premises of the person in arrear as aforesaid by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officer sees fit; and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water, electricity or telephone as the case may be in any competent court notwithstanding any contract to furnish for a longer time. C.O., c. 61, s. 101.

PENALTIES.

Penalties

20. If any person—

1. Wilfully or maliciously breaks up, pulls down or damages, injures, puts out of order or destroys any main, pipe, engine, waterhouse pipe, plug or other work, wire or conductor or apparatus, appurtenance or dependency thereof or any matter or thing made and provided for use in connection therewith or any of the materials used and provided for the same or ordered to be erected, laid down or belonging to any such company; or

2. In anywise wilfully does any other injury or damage for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said works or cause or procures the same to be done; or

3. Bathes or washes or cleans any cloth, wool, leather, skin, animals or any nauseous or offensive thing or casts, throws or puts any filth, dirt or any nauseous thing in or causes, permits or suffers the water of any sink, sewer or drain to be run or be conveyed into or causes any other annoyance to be done to the water within any reservoir, cistern, pond, source or fountain, from which the water belonging to the company is to be supplied or conveyed; or

4. By any wrongful or improper means increases the supply of gas or water or electricity agreed for with the company; or

5. Wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, wire, conductor, service pipe or fitting belonging to any such company or wilfully impairs or knowingly suffers the same to be altered or impaired so that the meter indicates less gas, water or electricity than actually passes through the same;

Such person shall on summary conviction be liable to a penalty not exceeding $50.

Entry of premises by employees of company

21. In all cases where the company may lawfully cut off and take away the supply of gas, water or electricity or disconnect the telephone system from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours' previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon making as little disturbance and inconvenience as possible and may remove and take away any pipe, meter, cock, branch, lamp, fitting or apparatus the property of and belonging to the company; and any servant duly authorized by the company may between the hours aforesaid enter any house into which gas, water, electricity or telephone system has been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, wire, conductor, apparatus or fitting belonging to the company or used for its gas, water, electricity or telephone; and if any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid the person so refusing or obstructing shall incur a penalty to the company for every such offence not exceeding $20 and a further penalty not exceeding $4 for every day during which such refusal or obstruction continues to be recovered with costs on summary conviction. C.O., c. 61, s. 102.

Removal of fittings, etc., where service discontinued

22. Where a customer discontinues the use of the gas or water or electricity or telephone furnished or supplied by any company or the company lawfully refuses to continue any longer to supply the same the officers and servants of the company may at all reasonable times enter upon the premises in or upon which such customer was supplied with gas or water or electricity or telephone for the purpose of removing therefrom any fitting, machine, apparatus, meter, pipe, wire, conductor or other thing being the property of the company in or upon such premises and may remove the same therefrom doing no unnecessary damage. C.O., c. 61, s. 102.

Arbitration where private property required

23. Subject to the provisions of section 12 hereof any company deeming it necessary or proper to conduct any of its pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or within ten miles of the municipality within which the operations of the company are to be carried on and the consent of such person cannot be obtained for that purpose the company shall proceed to arbitration under the provisions of *The Arbitration Ordinance*; such arbitration to be by two arbitrators one to be appointed by each party. *See Arbitration Act*, 1909, c. 6.

(2) The arbitrators shall determine the questions in dispute between the parties to the arbitration and shall decide as to the necessity or propriety of conducting any of the pipes, wires or conductors or carrying any of the works of the company through the lands of the other party to the arbitration if such party objects to the same being done and if such decision be in favour of the company or if no such objection is made shall adjudge what sum of money shall be paid to the owner of the property to be taken or used for the aforesaid purposes or any of them. C.O., c. 61, ss. 104, 105, 106, 107.

CHAPTER 104.

An Ordinance respecting the Exemption from Taxation of Beet Sugar Factories.

(Chapter 24 of 1901.)

WHEREAS it is desirable to promote the settlement of vacant lands in the Territories and to induce immigration by encouraging the establishment of factories for the conversion of beets into sugar;

Therefore the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

No assessment to be made by any municipality, etc., hereafter incorporated for 20 years

1. No assessment shall be made or levied by any municipality, town or village or other corporation possessing powers of taxation or assessment that may be incorporated, established or erected after the passing hereof upon any buildings, machinery, pipes or conduits or works of any kind actually in use and required for or in connection with the crushing or reducing of beets or their conversion into sugar or other saccharine products until the expiration of twenty years from the date on which this Ordinance shall come into force.

Not to affect existing municipalities, etc.,

2. Nothing in this Ordinance shall be construed as affecting or curtailing any power of assessment or taxation now possessed by any municipality, town or village or other corporation incorporated, established or erected at the date of coming into force of this Ordinance.

(NOTE.—*See* also chapter 37 of 1906, and chapter 20 of 1910 (2nd Session).)

CHAPTER 105.

An Ordinance respecting Assessment and Taxation in School Districts.

(Chapter 30 of 1901.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as "*The School Assessment Ordinance.*" Short title

INTERPRETATION.

2. In this Ordinance, unless the context otherwise requires— Interpretation

1. All words, names and expressions shall have the same meaning as is expressly or impliedly attached to them by *The School Ordinance*; 1910 (2), c. 6, s. 51.

2. The expressions "secretary" and "treasurer" shall include "secretary-treasurer";

3. The expressions "board," "assessor," "secretary" and "treasurer" shall include an official trustee appointed under the provisions of *The School Ordinance*;

4. The expression "judge" shall mean a judge of the District Court of the judicial district in which the school district is wholly or mainly situated. 1910 (2), c. 6, s. 54.

5. A consolidated school district shall be deemed to be a village district for the purposes of this Ordinance. 1913, c. 19, s. 20; 1914, c. 13, s. 2.

ASSESSOR.

3. The assessment in any village or rural district may be made by the board or any person appointed by it as assessor for the district. Assessor

(2) Any member of the board may be appointed assessor. Trustee may be assessor

(3) The expression "assessor" in any part of this Ordinance relating to village or rural districts shall mean the board or assessor accordingly as the assessment is made by the board or an assessor. Interpretation

ASSESSMENT IN RURAL DISTRICTS.

4. The following sections numbers 5 to 24 inclusive shall apply only to rural districts or portions thereof not situated within the limits of a rural municipality. 1913, c. 19, s. 21. Application of sections 5 to 24

5. In any rural district the property exempt from taxation shall be— Exemptions

1. All land held by or in trust for the use of any tribe of Indians;

2. The land of the district and the land to the extent of two acres of any other district used for school purposes;

3. The land to the extent of one acre held by or for the use of any church and occupied by a building used for church purposes;

4. The land in use as a public cemetery not exceeding twenty-five acres;

5. The land used as the right-of-way for any irrigation canal or ditch;

6. Land held under grazing lease or permit from the Government of Canada, and the interest therein of any person under such grazing lease or permit. 1914, c. 13, s. 2.

Assessment roll

6. As soon as may be in each year the assessor of the district shall assess every person the owner or occupant of land in the district and shall prepare an assessment roll in which shall be set out as accurately as may be—

(*a*) Each lot or parcel of land owned or occupied in the district and the number of acres it contains;

(*b*) The name of either the owner or occupant or both.

Assessment when owner unknown

7. If the assessor does not know and cannot after reasonable inquiry ascertain the name of the owner of any unoccupied lot or parcel of land in the district the same shall be deemed to be duly assessed if entered on the roll with a note stating that the owner is unknown.

Separate school district assessment of joint owners

8. In cases where separate school districts have been established whenever land is held by two or more persons as joint tenants or tenants in common the holders of such property being Protestants and Roman Catholics they shall be assessed in proportion to their interest in the land in the district to which they respectively are ratepayers. C.O., c. 75, s. 127.

Separate school district company may be assessed as supporter

9. A company may by notice in that behalf to be given to the secretary of the board of any district in which a separate school has been established and to the secretary of the board of such separate school district require any part of the land of which such company is the owner to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school ratepayer in the assessment roll in respect of the land especially designated in that behalf in or by said notice and so much of the land as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes but all other land of the company shall be separately entered and assessed in the name of the company as for public school purposes:

Proviso as to proportion of shares held in district

Provided always that the share or portion of the land any company entered, rated or assessed in any district for separate school purposes under the provision of this section shall bear the same ratio and proportion to the whole land of the company assessable within the district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up held and possessed by persons who are Protestants or Roman Catholics, as the case may be, bears to the whole amount of such paid or partly paid up shares or stock of the company.

Notice to be continuing

(2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall for all purposes be

deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors.

Notice open to inspection

(3) Every such notice so given to such secretary shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll each year.

Fraudulent notices

(4) False statements made in any such notice shall not relieve the company from rates but any company fraudulently giving such notice or making false statements therein shall be liable to a penalty not exceeding $100 and any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to the like penalty. C.O., c. 75, s. 128.

Penalty

Notice to company

(5) In the event of any company failing to give a notice as hereinbefore provided, the board of trustees of the separate school district may give to the company a notice in writing in the following form or to the like effect, that is to say: The board of trustees of the.....Separate School District No.....of the Province of Alberta hereby give notice that unless and until your company gives a notice as provided by section 9 of *The School Assessment Ordinance* (C. 30 of 1901), the school taxes payable by your company in respect of land lying within the limits of the Public School District No.....of the Province of Alberta (*naming the public school district in relation to which the separate school district is established*) will be divided between the said public school district and the said separate school district in shares corresponding with the total amount of the assessed value of lands assessed to individuals for public school purposes and the total amount of the assessed value of lands assessed to individuals for separate school purposes respectively. This notice is given in pursuance of section....., of chapter.....of the Statutes of Alberta, 1910.

Adjustment

(6) Unless and until a company to which notice has been given as aforesaid gives a notice as hereinbefore provided for the whole of the lands of such company lying within the limits of the public school district shall be entered, rated, and assessed upon the assessment roll of the public school district, but the public school district shall pay to the separate school district a share of the taxes collected from the company in respect of its lands equal to the proportion which the total assessed value of the lands assessed to individuals upon the assessment roll of the separate school district bears to the total assessed value of the lands assessed to individuals upon the assessment rolls of both the public and separate school districts.

Service on company

(7) Service may be effected upon a company of a notice under the foregoing provision by serving the same upon any person upon whom a writ of summons or other document originating proceedings may be served for the company. 1910 (2), c. 6, s. 55.

Assessment roll

10. Upon the completion of the assessment roll the assessor shall deliver the same to the secretary of the board.

Notice to persons assessed

(2) The secretary shall mail to each person assessed whose address is known to him a notice of his assessment; and the entry of the date of the mailing of each such notice together with the

initials of the secretary on the assessment roll shall be *prima facie* evidence of the mailing of such notice on the date entered without proof of the appointment or signature of the secretary and the absence of such date and initials shall be *prima facie* evidence that the person's address is unknown.

Copy of roll to be posted

(3) After all the notices have been mailed the secretary shall post a copy of the roll at the school house or if there be no school house in the district in some conspicuous place outside his residence and shall keep the original roll at his residence open to inspection at any reasonable time.

Date of posting may be noted on roll

(4) The secretary may enter on the assessment roll the date on which the same is posted up and initial the same and the entry of such date and initials shall be *prima facie* evidence of the posting of the roll on the date so entered without proof of the appointment of or initialling by the secretary.

Correction of error in roll

(5) If at any time within two months after the posting of the roll it is discovered that any person who was liable to assessment at the time of the posting of the roll is not assessed or that there is any error in any of the particulars contained in the roll the board may direct the secretary to enter the name of such person on the roll or correct the error. 1903 (1), c. 21, s. 1; and 1910 (2), c. 6, s. 56.

Notice to persons affected

(6) In the event of any addition to or alteration or correction of the roll under the next preceding subsection without the knowledge and consent of the person affected a notice as required by subsection (2) shall be sent to such person and for the purpose of this and the next following section the date of mailing such notice shall as respects him be deemed to be the date of posting the roll. 1903 (1), c. 21, s. 1.

Error not to invalidate

10*a*. No assessment shall be invalidated by reason of any error or misdescription in any assessment notice or by reason of the nonreceipt of such notice by the person to whom it is addressed. 1910 (2), c. 6, s. 57.

Appeal from assessment

11. Any person who objects to his assessment may within fifteen days after the posting of the roll appeal from such assessment by giving notice of such appeal in writing to the justice of the peace nearest the residence of the secretary and such justice shall at the expiration of the time for appealing notify the secretary and appellant of the time and place when all appeals will be heard which shall not be later than thirty days after the posting of the roll. 1910 (2), c. 6, s. 58.

Secretary to appear and produce roll, etc.

(2) At the time and place fixed by the justice of the peace the secretary shall appear and produce the assessment roll and all documents and papers in his custody relating to the appeal.

Fee to justice

(3) With every notice of appeal there shall be paid to the justice of the peace by the appellant the sum of $2 for his fee for hearing the appeal and in the event of the appeal being allowed the justice shall order the board to pay to the appellant the amount of the fee so paid by him.

Alteration in roll

(4) Every alteration of the roll necessitated by the result of any such appeal shall be made and initialled by the justice of the peace.

Appeal to judge

(5) An appeal shall lie from the decision of the justice of the peace to a judge and for the purpose of such appeal the provisions

of section 41 shall apply. 1903 (1), c. 21, s. 2; and 1910 (2), c. 6, s. 59.

Rate to be struck

12. After the expiration of fifteen days from the posting of the roll if no notices of appeal have been given or after all appeals have been decided the board shall make an estimate of the probable expenditure of the district for the current year and shall strike such a rate not exceeding twelve cents per acre on the number of acres of land in the district shown on the assessment roll as shall be sufficient to meet such probable expenditure. 1913, c. 19, s. 22.

Tax roll

13. The secretary shall thereupon prepare a tax roll by entering on the assessment roll the rate per acre struck as in the next preceding section provided and the amount of taxes payable by each person assessed for the current year:

Minimum tax

Provided, however, that the taxes so levied on any lot containing at least one acre, in any subdivision or plan, or on any fraction of a section containing at least one acre shall be at least 50c., and the taxes levied on any lot containing less than one acre in any subdivision or plan or on any fraction of a section containing less than one acre shall be 25c. 1910 (2), c. 6, s. 60.

Tax roll to be delivered to treasurer

14. The secretary if there be both a secretary and a treasurer shall deliver the tax roll to the treasurer as soon as may be after it has been prepared and the treasurer shall post a copy thereof in the school house or if there be no school house in the district in a conspicuous place outside his residence and retain the original at his residence open to inspection by any ratepayer at any reasonable time.

Copy to be posted

(2) The treasurer may enter on the tax roll the date on which the same is posted up and initial the same and the entry of such date and initials shall be *prima facie* evidence of the posting of the roll on the date so entered without proof of the appointment of or initialling by the treasurer.

Date of posting may be noted on roll

Tax notice to be sent

(3) The treasurer shall mail to each person assessed whose address is known to him a notice of the amount of his taxes and the entry of the date of mailing of each such notices with the initials of the treasurer on the tax roll shall be *prima facie* evidence of the mailing of the notice on the date entered without proof of the appointment or signature of the treasurer and the absence of any entry of such date and initials shall be *prima facie* evidence that the person's address is unknown.

Rebate in taxes

(4) The board may by resolution allow a rebate not to exceed ten per cent. upon all taxes paid within thirty days after such taxes have become payable. 1903 (1), c. 21, s. 4.

Taxes a lien

15. The taxes accruing upon or in respect of any land in the district shall be a special lien upon such land having priority over any claim, lien, privilege or encumbrance thereon except claims of the Crown.

Penalty on arrears

(2) In the event of any taxes remaining unpaid after the fifteenth day of December of the year in which the same are imposed there shall be added thereto by way of a penalty a sum equal to five per centum of such taxes remaining unpaid, and in the event of such taxes or any part thereof still remaining unpaid

on July 1st of the year following that during which the taxes were imposed there shall be added thereto by way of a penalty a sum equal to five per centum of such taxes remaining unpaid, and such amount or amounts so added shall form part of the taxes, which by this section are created a special lien upon the land, and such penalty or penalties shall be imposed in the manner aforesaid in each succeeding year during which the said taxes remain unpaid; nothing in this section contained shall be construed to extend the time for payment of the said taxes or in any way to impair the right of distress or any other remedy hereby provided for the collection of the said taxes. 1910 (2), c. 6, s. 61; 1915, c. 10, s. 2 (1).

RECOVERY OF TAXES.

Distress for taxes

16. In case any person fails to pay the taxes assessed against him within thirty days after the posting of the tax roll the treasurer may by himself or his agent levy the same with costs by distress of the goods and chattels of the person against whom the same are assessed situated within the district or of any goods and chattels found upon the land in respect of which the taxes are due the property of or in the possession of any other occupant of the premises and the costs chargeable shall be the same as those allowed in the schedule to chapter 34 of *The Consolidated Ordinances* 1898.

(2) The treasurer shall by advertisement posted up in at least five public places in the district give at least ten days' public notice of the time and place of sale and the name of the person if known for payment of whose taxes the property is to be sold and at the time named in the notice the treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes due with all lawful costs including $1 for posting notices.

(3) If the property distrained has been sold for more than the amount of taxes and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus it shall be paid to the person in whose possession the property was when the distress was made.

(4) If the claim is contested such surplus money shall be paid over by the treasurer to the clerk of the District Court within whose jurisdiction such school is situated who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise. 1910 (2), c. 6, s. 62.

Suit for taxes

17. Any taxes or arrears of taxes due to a district may be recovered by suit in the name of the board as a debt due to the district; in which case the tax roll shall be *prima facie* evidence of the debt.

(2) For the purposes of this section all taxes shall be deemed to be due on the day on which the tax roll is posted up as provided in section 14 hereof.

Taxes paid to be entered on roll

18. The treasurer shall enter all amounts paid him for taxes on the original tax roll opposite the lot or parcel of land in respect of which such payment is made; and shall issue an official receipt for all such payments.

(2) Payments made on account of taxes due in respect of any land shall be first applied in payment of arrears of taxes due in respect of such land since the first of January, 1902. Arrears first charge on payments

RETURN OF UNPAID TAXES.

19. The treasurer of every district shall within the first fifteen days of January in each year make a return verified by his solemn declaration to the Minister of Municipal Affairs in such form as may by the Minister of Municipal Affairs be from time to time prescribed showing all lands in the district in respect of which taxes have not been paid together with the years for which such taxes are due, and such return shall be binding upon the district in so far as the same may affect any purchaser or mortgagee in good faith of the lands in respect of which the return is made. 1910 (2), c. 6, ss. 52 and 63; 1911-12, c. 4, s. 8. Return of unpaid taxes

(2) The return for all purposes shall be *prima facie* evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed.

(3) The treasurer shall continue to collect arrears of taxes after sending in his return of arrears; but in every case where he receives payment of arrears he shall report such payment to the Minister of Municipal Affairs within ten days after the receipt thereof in order that the same may be noted on the return from his district which is on file in the department; throughout the year he shall notify the said Minister of Municipal Affairs of any change which it may be necessary to make on his return. Treasurer to report payments

(4) The treasurer shall, however, cease to collect arrears when notified by the Minister of Municipal Affairs that forfeiture proceedings in respect to lands in his district have been commenced. Notice from Minister

(5) In case the treasurer of any district neglects or refuses to forward to the Minister of Municipal Affairs the return provided for in subsection (1) hereof, such district shall, at the discretion of the Minister of Education forfeit the sum of five dollars out of any government grant which may have been earned and to which the district is entitled for each week such return is delayed. 1910 (2), c. 6, s. 64; 1911-12, c. 4, s. 8. Penalty for neglect to forward return

20. On application by the Attorney General of the Province of Alberta or some advocate authorized by him to a judge of the District Court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the vicinity of the lands entered on such return to be named by the Minister of Municipal Affairs. 1910 (2), c. 6, ss. 50, 52 and 65; 1911-12, c. 4, s. 8. Application to judge for appointment for confirmation

(2) A notice of the time and place fixed for confirmation of such return shall be sent by registered mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper land titles office or by the said return to have any interest in the lands mentioned in the said return in respect of which confirmation is desired and whose post office address is shown by said records or return; and the entry against

such lands of the date of mailing such notice together with the initials of the clerk of the department mailing the same shall without proof of the appointment or signature of the said clerk be *prima facie* evidence that the required notice was mailed on the date so entered. 1910 (2), c. 6, s. 66.

Adjudication by judge

21. At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; he shall thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default and report the adjudication to the said Attorney General; he shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years naming the amounts of such arrears severally due and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the application; and the effect of such adjudication when registered as hereinafter provided shall be to vest in His Majesty in the right and to the use of his Province of Alberta the said lands freed from all liens, mortgages and encumbrances of any nature and kind whatsoever subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by the payment to the Minister of Municipal Affairs of the amounts named including expenses as aforesaid together with the redemption fee of five cents for each and every acre in the parcel so redeemed and any subsequent taxes paid by the said Minister of Municipal Affairs, but no redemption fee shall be less than $2. 1910 (2), c. 6, s. 67; 1911-12, c. 4, s. 8.

(2) For the purposes of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.

(3) In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the Minister of Municipal Affairs. 1910 (2), c. 6, s. 52; 1911-12, c. 4, s. 8.

(4) A copy of such adjudication certified by the Minister of Municipal Affairs shall be forwarded to the registrar of land titles of the land registration district in which the lands named in the adjudication or any of them are situated; and it shall be the duty of the registrar to register the same against the lands therein named. 1910 (2), c. 6, ss. 52 and 68; 1911-12, c. 4, s. 8.

(5) A copy of such adjudications shall also be sent by registered mail to the persons to whom by subsection (2) of section 20 hereof notice of the time and place fixed for confirmation of the return is required to be sent and such persons or any of them shall be entitled to redeem the lands as herein provided.

(6) Where the word "taxes" occurs in subsection 1 of this section and in sections 22 and 24 hereof the same shall be construed as extending to and including the addition or additions as the case may be of the amount or amounts added by way of penalty as provided for in subsection 2 of section 15 of the said Ordinance as amended herein. 1910 (2), c. 6, s. 69.

Payment after appointment

22. If any person interested in any parcel of land contained in the return presented to the judge for confirmation as provided

by section 21 of this Ordinance pays the taxes upon such land before the date fixed for confirmation of such return but after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue be liable to pay the sum of $1 for each quarter section or portion thereof for costs of application to the judge and advertising and postage in connection with such proceedings; and any sums so paid shall form part of the general revenue. 1910 (2), c. 6, s. 70.

Registration of certificate of redemption

23. When the taxes on any parcel of land together with the expenses and redemption fee provided for in section 21 hereof have been paid to the Minister of Municipal Affairs within one year from the date of such adjudication the said Minister of Municipal Affairs shall issue to the person paying the taxes a certificate in form Q in the appendix to this Act which certificate shall on presentation to the registrar of the land registration district in which the lands named therein are situated be registered by him free of charge and without proof of the signature thereto, and the said certificate when so registered shall discharge and release the said lands from the said adjudication and the effect thereof. 1911-12, c. 4, s. 8.

Certificate vesting title in Crown

(2) If the said certificate of redemption has not been received by him as aforesaid the registrar shall on the request of the Minister of Municipal Affairs issue free of charge a certificate of title to the land not so redeemed in favour of His Majesty in the right and to the use of his Province of Alberta. 1910 (2), c. 6, s. 71; 1911-12, c. 4, s. 8.

Payments of taxes by Minister of Municipal Affairs after confirmation

24. So soon as the return of the treasurer has been confirmed the Minister of Municipal Affairs shall pay to the treasurer the amount of taxes adjudged in arrears on each parcel of land deducting therefrom any charges he may have been required to pay; and thereafter while owned by His Majesty the said land shall be assessed in the name of the Minister of Municipal Affairs who shall pay taxes as if the land were assessed to an ordinary individual. 1911-12, c. 4, s. 8.

(2) Upon the sale of every such parcel of land any surplus derived from such sale over and above the amount of all sums paid by the Minister of Municipal Affairs in respect thereof for taxes or otherwise howsoever together with six per cent. per annum thereon to the extent of all arrears of taxes whether imposed before or after the coming into force of this Ordinance which have not theretofore been paid to the treasurer of the district shall be paid to him. 1910 (2), c. 6, ss. 52, 72; 1911-12, c. 4, s. 8.

24*a*. In case any rural school district is included within the limits of a rural municipality it shall be the duty of the council of such municipality, through its proper officers, to levy and collect such taxes with respect to such school district as may be requisitioned for by a resolution of the trustees of the district, and the council shall forthwith levy and collect such taxes in the same manner as the municipal taxes and pay the proceeds thereof to the treasurer of such school district:

Provided, however, that the council of the municipality shall, from time to time, advance the amounts required for the purposes of the district, such amounts not to exceed the amount requisitioned for by the board. 1913 (1st Session). c. 19, s. 23; 1914, c. 13, s. 2.

(2) If any rural school district is situated partly in two or more rural municipalities the board of trustees of such school district shall prepare a detailed estimate of the probable amount of the expenditure for the year and shall, upon receipt from the secretary of each such municipality of a statement of the assessed value of that portion of the school district lying within such municipality, allocate the amount of such estimated expenditure in proportion to the assessed value of the portions of the district lying within the respective municipalities, and shall, before the first day of March in each year, forward a requisition to the council of each municipality for the amount so allocated to such municipality. 1913 (1st Session), c. 19, s. 23; 1914, c. 13, s. 2.

(3) If any rural school district is situated partly within the boundaries of one or more rural municipalities and partly outside the boundaries of any municipality the board of trustees of such school district shall prepare a detailed estimate of the probable amount of the expenditure for the year and shall, upon the completion of the assessment of that portion of the district outside the boundaries of any municipality and the receipt from the secretary of each municipality within which a portion of the district is situated of a statement of the assessed value of that portion of the school district lying within such municipality, allocate the amount of such estimated expenditure in proportion to the assessed value of the portions of the district lying within the respective municipalities and that portion lying outside the boundaries of any municipality, and shall, before the first day of March in each year, forward a requisition to the council of each municipality for the amount so allocated to such municipality. 1913 (1st Session), c. 19, s. 23; 1914, c. 13, s. 2.

(4) The board of trustees of such rural school district shall strike a rate and levy the taxes upon the lands in that portion of the district not included within the boundaries of any municipality; and such taxes shall be imposed upon such property as would be liable to assessment and taxation if such portion of the school district were within the boundaries of a rural municipality, and all the provisions of *The Rural Municipality Act* in regard to the levying of assessment, the imposing of taxes, including the provisions in regard to appeals and to forfeiture for nonpayment of taxes, shall apply to such assessment and collection of taxes in such portion of any rural school district excepting with regard to appeal from assessment on any lands in such district lying outside the boundaries of any municipality, in which case appeals shall lie to the school board of such district with the right of further appeal to the judge of the District Court as provided for in *The Rural Municipality Act*. 1913 (1st Session), c. 19, s. 23; 1914, c. 13, s. 2.

(5) 1913, c. 19, s. 23; *Repealed* 1914, c. 13, s. 2.

ASSESSMENT AND TAXATION IN VILLAGE DISTRICTS.

Application of sections 26 to 87

25. The following sections numbers 26 to 87 inclusive shall apply to village and consolidated districts only. 1914, c. 13, s. 2.

Property assessable

26. All property real and personal in any village district not herein declared exempt from taxation shall be subject to assessment and taxation for school purposes.

(2) The property exempt from taxation under the provisions of this Ordinance shall be— Exemptions

1. All the property held by His Majesty or for the public use of the Province of Alberta;

2. All property held by or in trust for the use of any tribe of Indians or the property of the Indian department;

3. Where any person is occupant of or interested in any property mentioned in either of the two preceding clauses otherwise than in an official capacity the occupant or person interested shall be assessed in respect thereof but the property itself shall not be liable beyond the interest of the person assessed; provided however, that in the case of land held under grazing lease or permit from the Government of Canada, no tax shall be payable by any person, as such occupant or person interested in of his interest therein under such grazing lease or permit; 1914, c. 13, s. 2.

4. The buildings and grounds of all public and separate schools and the personal property belonging to the same being used exclusively for school purposes and under the management of the Department of Education of the Province of Alberta; 1914, c. 13, s. 2.

5. A building used for church purposes and not used for any other purpose for hire or reward and the lot or lots whereon it stands not exceeding one-half acre except such part as may have any other building thereon;

6. Any land in use as a public cemetery not exceeding twenty-five acres;

7. The annual income of any person derived from any source;

8. Grain, hay, household effects of every kind, books and wearing apparel;

9. The increase in the value of the land by reason of the annual cultivation thereof together with the growing crops or by reason of the cultivation of trees;

10. All works constructed, operated and used in connection with irrigation ditches as well as the ditches themselves operated under and subject to the provisions of *The North-West Irrigation Act* 1898:

Provided however that should any such works and ditches be not operated during one year then such works and ditches shall not be exempt from taxation during the year following that in which said works were not operated. C.O., c. 75, s. 132; 1910 (2), c. 6, s. 50.

11. All personal property and buildings and other inprovements upon land providing it is declared by resolution of the board that the same be exempt. 1914, c. 13, s. 2.

27. As soon as may be in each year the assessor shall prepare an assessment roll for the district in which shall be set down according to the best information available a list of all taxable property in the district with the names of the occupants and owners if such can be procured and such roll may be in form E in the appendix hereto. C.O., c. 75, s. 130. Assessment roll

28. A person owning or occupying property not liable to taxation may compel the assessor on written demand to assess him for such property in order that he may thereby be qualified for voting or holding office. C.O., c. 75, s. 133. Right to waive exemption from taxation

Occupant to be assessed

29. Land and personal property shall be assessed to the person in occupation or possession thereof unless in the case of a non-resident owner such owner shall in writing require the assessor to assess him alone for such property.

Recovery of taxes

(2) Taxes may be recovered by any of the manners herein authorized either from the owner or occupant. C.O., c. 75, ss. 134, 136.

Assessment cash value

30. Real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor. C.O., c. 75, s. 138.

Stock in trade

31. In assessing stock in trade the assessor shall assess a person, firm or corporation for the amount of the average stock in trade kept on hand by such person, firm or corporation during the twelve months immediately prior to the date of assessment or in case such person, firm or corporation kept stock in trade on hand for a shorter period then only during such shorter period. C.O., c. 75, s. 139; 1910 (2), c. 6, s. 73.

Assessor may require statement

32. Any person may be required by the assessor to deliver to him a written statement of all property for which he is liable to be assessed with such other information as to owner, occupant, location and value or other necessary particulars as may be demanded and if he fails to do so or knowingly makes any false statement such person shall upon complaint of the assessor forfeit and pay a fine not exceeding $50 to be recovered upon summary conviction. C.O., c. 75, s. 140.

Omission to furnish

Penalty

Completion of roll

33. The assessment roll shall be completed by the first day of April or so soon thereafter as may be in each year and the assessor shall before handing the roll over to the secretary of the board make an affidavit which shall be inscribed upon the roll that the statements contained therein are correct to the best of his knowledge and belief and the roll when so verified shall be *prima facie* evidence of the statements therein contained. C.O., c. 75, s. 141.

Delivery of roll to secretary

34. The assessor shall thereupon deliver the assessment roll to the secretary of the board who shall file the same and endorse thereon the date of such filing. C.O., c. 75, s. 143 in part; 1900, c. 26, s. 13.

Assessment roll open for inspection

35. The secretary shall until the sitting of the court of revision at all reasonable times keep the roll open to the inspection of all persons resident or owning or in the possession of property within the district or the agents of such person appointed in writing and the overseer of the village may have access to the assessment roll at all reasonable hours. C.O., c. 75, s. 143 in part.

COURT OF REVISION.

Fixing date of court of revision

36. Within ten days after the filing of the roll the board shall appoint a day, hour and place when it shall sit as a court of revision and it shall cause to be posted up at least twenty days before the meeting of such court in at least five conspicuous places within the district one of which shall be the post office therein notices as in form F in the appendix hereto.

(2) The court of revision shall be held not earlier than forty days nor later than fifty days after the filing of the roll:

Provided that in the event of no appeal being received as provided by sections 38 and 39 of this Ordinance the holding of the court of revision may be dispensed with. C.O., c. 75, ss. 145 in part, 146.

Notice of assessment

37. Within ten days after the time for holding the court of revision has been fixed the secretary shall give notice in writing by post or otherwise to every person whose name appears upon the assessment roll and whose address is known in form G in the appendix hereto. C.O., c. 75, s. 144 (1).

Appeal to court of revision

38. Any person complaining of an error or omision in regard to himself as having been wrongfully inserted in or omitted from the roll or as having been overcharged by the assessor in the roll may personally or by his agent give notice in writing to the secretary that he considers himself aggrieved for any or all of the causes aforesaid.

Notice to be given

(2) The notice shall be given to the secretary at least five days before the day fixed for the sitting of the court of revision. C.O., c. 75, s. 144 (2).

Complaint as to assessment of third party

39. If any ratepayer thinks that any person has been assessed too high or too low or has been wrongfully entered on or omitted from the roll or that any property of any person has been misdescribed or omitted from the roll he may not later than fifteen days before the day fixed for the court of revision give notice in writing to the secretary and the secretary shall forthwith give notice in writing to each person with respect to whom a complaint has been made in form J in the appendix hereto. C.O., c. 75, s. 144 (3).

Court of revision

40. At the time appointed unless there are no appeals the board shall sit as a court of revision to consider all appeals and complaints that have been received by its secretary in accordance with the provisions of this Ordinance in that behalf and it shall have power to take evidence under oath and shall alter and amend the roll if necessary in accordance with its decision in each case.

Adjournment of sitting

(2) The court of revision may adjourn from time to time but no adjournment shall be for a longer period than one week.

Roll final when passed

(3) The roll as finally passed by the court and certified by the secretary as passed shall except in so far as the same may be further amended on appeal to a judge of the District Court be valid and bind all parties concerned notwithstanding any defect or error committed in or with regard to such roll or any defect or error or misstatement in the notices required by sections 36, 37 and 39 of this Ordinance or the omission to deliver or transmit such notices.

Amendment of whole roll

(4) The court of revision may if in its discretion it deems proper declare the whole roll void and in that event a new assessment shall be made in accordance with the provisions of this Ordinance as if no assessment had been made. C.O., c. 75, ss. 145, 147, 148: 1909, c. 4, s. 6.

APPEAL FROM COURT OF REVISION.

Appeal to judge of District Court

41. If any person is dissatisfied with the decision of the court of revision he may appeal therefrom to a judge of the District Court; in all cases of such appeals the proceedings shall be as follows:

Notice of appeal

1. The person appealing shall in person or by his agent serve upon the secretary of the school district within eight days after the decision of the court of revision a written notice of his intention to appeal to a judge of the District Court in which shall be stated the grounds of appeal;

List of appeals for judge

2. The secretary shall immediately after the time limited for filing notice of appeals forward a list of all appeals filed to the judge of the District Court usually exercising jurisdiction in the judicial district of which such district forms a part or if such district forms a part of more than one judicial district then to the judge whose official residence is nearest the district and the judge shall thereupon appoint a time and place for holding a court to hear such appeals and shall notify the secretary of such appointment;

Clerk of court

3. The secretary of the district shall be the clerk of such court;

Notice of hearing appeals

4. The secretary shall thereupon give notice to all the parties appealing and appealed against in the same manner as is provided for giving notice on a complaint to the court of revision specifying the time and place when and where the appeal will be heard but in the event of failure by the secretary to have the required service of notice in any appeal made or to have the same made in proper time the judge may direct service to be made for some subsequent day upon which he may sit;

List of appeals, etc., to be posted

5. The secretary of the district shall cause a conspicuous notice to be posted up in his office or the place where the board holds its sittings containing the names of the appellants and parties appealed against with a brief statement of the ground or cause of appeal together with the time and place at which a court will be held to hear appeals;

Hearing of appeals

6. At the court so holden the judge shall hear and determine the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that all appeals may be determined before the first day of September:

Determination

Provided that the judge may either before or after the said first day of September in his discretion extend the time for the determination of appeals beyond the said first day of September upon proof that the assessment roll was not complete in time to allow of such appeals being determined prior to the said date;

Production of roll and papers to judge

7. At the court to be holden by the judge to hear and determine the appeals hereinbefore provided for the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll and all papers and writing in his custody connected with the matter of appeal and such roll shall be altered and amended if necessary according to the decision of the judge who shall write his initials opposite any part of the said roll in which any alteration or amendment is made unless the decision is not then given in which case the secretary of the district shall when the decision is given forthwith alter and amend the roll if necessary according to the same and write his name opposite every such alteration or amendment;

Correction of roll

8. In all such proceedings the judge shall possess all the powers for compelling the attendance and for the examination on oath of all parties whether claiming or objecting or objected to and all other persons whatsoever and for the production of books, papers, rolls and documents and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the District Court. Powers of judge

9. All process or other proceedings in, about or by way of appeal may be intituled as follows: Intituling process

"In the matter of appeal from the court of revision of the school district of

A.B.,
Appellant,
and
C.D.,
Respondent."

10. The costs of any proceeding before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the judge thinks proper; and where costs are ordered to be paid by any party the same shall be enforced by execution to be issued as the judge may direct from the District Court or in the same manner as upon an ordinary judgment for costs recovered in such court; Costs

11. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other the same to be taxed according to the allowance in the District Court for such costs; and in case where execution issues the like costs thereof as in the said court and of enforcing the same may also be collected thereunder; Allowances for costs

12. The decision and judgment of the judge shall be final and conclusive in every case adjudicated upon. C.O., c. 75, s. 149; 1900, c. 26, s. 14; 1909, c. 4, s. 6. Judgment final

RATE OF TAXATION.

42. So soon as the assessment roll has been finally revised by the board as aforesaid they shall make an estimate of the probable expenditure of the district for the current year and shall strike such a rate of assessment on the assessed value of the taxable property within the district for the school they represent as shall be sufficient to meet such probable expenditure making due allowance for charges and probable loss in collection. Provided, however, that the taxes levied on any lot or parcel of land in any subdivision or plan or any fraction of a section shall be at least 50 cents. 1914, c. 13, s. 2. Rate to be struck

(2) 1909, c. 5, s. 4; 1913, c. 9, s. 41; *Repealed* 1914, c. 13, s. 2.

COLLECTION OF TAXES.

43. The board shall cause to be made out a collector's roll for the district on which shall be set down the name of every person assessed, the assessed value of his real and personal property and the amount with which such person is chargeable according to the rate of taxation struck in respect of sums ordered to be levied by the board with any other particulars that may be necessary and such roll shall be placed in the hands of the treasurer or collector duly appointed by the board. Collector's roll Contents

Rebate in taxes

(2) The board may by resolution allow a rebate not to exceed ten per cent. upon all taxes paid within thirty days after the same have become payable. C.O., c. 75, s. 152.

Penalty on arrears

(3) In the event of any taxes remaining unpaid after the fifteenth day of December of the year in which the same were imposed there shall be added thereto by way of a penalty a sum equal to five per centum of such taxes so remaining unpaid, and in the event of such taxes or any part thereof still remaining unpaid on July 1st, of the year following that during which the taxes were imposed there shall be added thereto by way of a penalty a sum equal to five per centum of the taxes remaining unpaid, and such amount or amounts so added shall form part of the taxes which by section 53 of the said Ordinance as amended herein are created a special lien upon the land and such penalty or penalties shall be imposed in the manner aforesaid in each succeeding year during which the said taxes remain unpaid; nothing in this subsection contained shall be construed to extend the time for payment of the said taxes or in any way to impair the right of distress or any other remedy provided by this Ordinance for the collection of the said taxes. 1910 (2), c. 6, s. 74; 1915 c. 10, s. 2 (2).

Collector's notice

44. As soon as the treasurer or collector shall have received the collector's roll he shall remit or cause to be remitted by mail or otherwise to each person whose name appears upon it as assessed for taxes whose address is known a notice in form L in the appendix hereto.

(2) If the board appoints some person other than the treasurer to be collector such person before receiving any money as such collector shall furnish security in the same manner and to the same amount as is required by *The School Ordinance* in the case of the treasurer. C.O., c. 75, s. 153.

Receipt and entry of payment

45. The treasurer or collector, as the case may be, shall give receipts on behalf of the district for all taxes paid to him and shall enter the fact of such payment with the date on the collector's roll.

Appropriation

(2) Payments made on account of taxes due upon any land shall be first applied in payment of arrears of taxes due upon such land. C.O., c. 75, s. 154.

Collector to name defaulters to board

Action thereon

46. The treasurer or collector shall notify the board from time to time of the names of persons who fail to pay the taxes assessed against them and the board may take or authorize to be taken such action for the collection of such taxes as is hereinafter provided. C.O., c. 75, s. 155.

Levy by distress

47. In case any person fails to pay the taxes assessed against him within the thirty days specified in the notice provided by section 44 of this Ordinance the treasurer or collector may by himself or his agent levy the same with costs by distress of the goods and chattels of the person against whom the same are assessed situated within the school district or of any goods and

Costs

chattels found upon the premises assessed the property of or in possession of any other occupant of the premises and the costs chargeable shall be those allowed in the schedule to chapter 34 of *The Consolidated Ordinances* 1898. C.O., c. 75, s. 156.

Sale of distrained property

48. The treasurer shall by advertisement posted up in at least three public places in the school district and also by publishing the same in a newspaper published in or near to the said school district give at least six days' public notice of the time and place of sale and the name of the person for payment of whose taxes the property is to be sold and at the time named in the notice the treasurer or collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes assessed with all lawful costs including the cost of advertisement. C.O., c. 75, s. 157.

Procedure

Disposition of surplus

49. If the property distrained has been sold for more than the amount of taxes and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus it shall be paid to the person in whose possession the property was when the distress was made.

(2) If any such claim is made by the person for whose taxes the property was distrained and the claim is admitted the surplus shall be paid to the claimant.

(3) If the claim is contested such surplus money shall be paid over by the treasurer or collector of the district to the clerk of the Supreme Court within whose jurisdiction such school is situated who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise. C.O., c. 75, s. 158.

Recovery of taxes as a debt

50. The taxes may be recovered by suit as a debt due to the district in which case the production of the collector's roll or a copy of so much thereof as relates to the taxes payable by the person and certified as a true copy by the secretary of the district shall be *prima facie* evidence of the debt. C.O., c. 75, s. 159.

Evidence

ARREARS OF TAXES.

Return of roll

51. The treasurer or collector, as the case may be, shall on or before the first day of December in each year return the collector's roll to the secretary of the board with an account of all moneys received by him accompanied by an affidavit made before a justice of the peace or other person authorized to take affidavits that the collection and other proceedings have been taken in accordance with the terms of this Ordinance and that all the returns contained therein are correct. C.O., c. 75, s. 160.

Account

Verification

Return of arrears

52. The treasurer or collector, as the case may be, shall at the same time make a return verified by affidavit as provided in the next preceding section of all property upon which the taxes or any portion thereof remain unpaid.

Copy to be filed

(2) A copy of such return shall be kept on file by the secretary of the district and shall be open to inspection of the ratepayers of the district or their agents. C.O., c. 75, s. 161.

Inspection

Taxes special lien

53. The taxes accrued upon or in respect of any land in the district shall be a special lien upon such land and have priority over any claim, lien, privilege, or encumbrance thereon except claims of the Crown. 1910 (2), c. 6, s. 75.

Priority

Collection of arrears

54. Such accrued taxes shall be entered upon the collector's roll of the district against such property from year to year and the payment of such taxes shall be enforceable at all times in any of the manners provided by this Ordinance for the enforcement of the payment of taxes. C.O., c. 75, s. 163.

Distress for arrears

55. Whenever the treasurer or collector is satisfied or is notified by the board that there is sufficient distress upon any real property within the district which is in arrears for taxes he may proceed to levy the amount due in the manner and under the same provisions as are contained in sections 47, 48 and 49 of this Ordinance. C.O., c. 75, s. 164.

SALE OF LAND FOR TAXES.

List of lands for tax sale

56. Whenever any portion of the taxes on any land has been due for two years from the first day of January in the year in which the same was imposed whether imposed before or after the coming into force of this Ordinance the treasurer shall submit to the chairman a list in duplicate of all the lands in his book on which taxes are so due with the amount of arrears against each lot set opposite to the same and the treasurer shall authenticate each such list by affixing thereto the seal of the corporation and his signature and one of such lists shall be deposited with the secretary and the other shall be given to the treasurer with a warrant thereto annexed under the hand of the chairman and the seal of the board commanding him to levy upon the land for the arrears due thereon with costs and the said treasurer is hereby authorized to sell the same. C.O., c. 75, s. 165.

Warrant to treasurer to sell

Only listed lands to be sold

57. The said treasurer shall not sell any lands which have not been included in the list furnished him as aforesaid. C.O., c. 75, s. 166.

Publication of list

Contents

58. The treasurer shall prepare a copy of the list of lands to be sold as authorized by this Ordinance and shall include therein in a separate column a statement of the proportion of costs chargeable on each parcel for advertising and the sum of twenty-five cents for each parcel advertised for sale and shall cause the said list to be published at least once a week for four consecutive weeks in at least one newspaper published in the school district or if there is no newspaper published therein in the newspaper published nearest to the school district.

Notice of tax sale to be published in the Gazette

(2) The treasurer shall also cause to be published in *The Alberta Gazette* during two consecutive issues of the same between the date of the first publication in the newspaper above mentioned and the date of sale a notice in form N in the appendix hereto. C.O., c. 75, s. 167; 1910 (2), c. 6, s. 50.

Advertisement sale

Date, place of sale

59. The advertisement in a newspaper shall contain a notification that unless the arrears of taxes and costs are sooner paid the treasurer will proceed to sell the land for taxes on the day and at the place mentioned in the advertisement. C.O., c. 75, s. 168.

Hour of sale

Description of lands

60. Every such notice shall specify the place, day and hour at which the sale shall commence and each lot or parcel of land shall be designated therein by a reasonable description for registration purposes. C.O., c. 75, s. 169.

61. All the lots or parcels liable for sale in the school district shall be included in the same statement and notice but any neglect or omission to include any lands liable for sale in the said list shall not be held to invalidate the sale or to prevent the sale of such omitted land on any future occasion for all arrears of taxes that may be due thereon. C.O., c. 75, s. 170. All lots saleable to be included Omissions

62. The day of sale shall not be less than ten days or more than forty days after the last publication of the list and the sale shall take place at such place in the district as the board shall by resolution appoint and in the absence of such appointment at such place in the district as the treasurer in his said notice shall name. C.O., c. 75, s. 171. Day and place of sale

63. If at any time appointed for the sale of lands no bidders appear the treasurer may adjourn the sale from time to time:

Provided always that no such adjournment shall be for a period exceeding fifteen days. C.O., c. 75, s. 173. Adjournment

64. At the place, day and hour appointed for the sale of lands if the taxes thereon including costs and charges have not previously been paid the treasurer shall offer the lands for sale by public auction and in so doing shall make and declare the amounts stated in the lists as the taxes due with the charges and costs as the upset price on each respective lot or parcel as offered for sale and shall thus sell the same to the highest bidder or to such person as may be willing to take it at the upset price there being no higher bidder but subject to redemption as hereinafter provided for. C.O., c. 75, s. 174. Proceedings at sale Upset price

65. If no bidder appears for any land for the full amount of arrears of taxes, costs and charges the treasurer shall there and then sell the same to the board at the upset price. C.O., c. 75, s. 175. Sale to board if no bidders

66. If the land sells for a greater sum than the taxes due together with all charges thereon the purchaser shall only be required to pay at the time of sale the amount of said taxes and charges and the balance of the purchase money shall be payable within one calendar month after the time of redemption of said land shall have expired without the same having been redeemed within the time limited and if the said balance of purchase money shall not be so paid by the purchaser, his heirs or assigns within the time above prescribed he and they shall forfeit all claim to the said land and to any transfer or conveyance thereof as well as the amount paid at the time of sale and such land shall thereupon cease to be affected by said sale. C.O., c. 75, s. 176. Where land sold for more than amount of taxes Payment of purchase money Default by purchaser

67. If the purchaser of any parcel of land fails immediately to pay the treasurer on account of said purchase the amount claimed for arrears of taxes and charges the treasurer shall forthwith again put up the property for sale. C.O., c. 75, s. 177. Purchaser failing to pay price

68. The treasurer after selling any land for taxes shall give to the purchaser a certificate describing the land as advertised stating the amount of taxes and costs paid and the total amount of purchase money and further saying that a transfer of the same Treasurer to give certificate

to the purchaser or his assigns shall be executed by the treasurer on his or their demand within one month after the expiration of one year from the date of the certificate if the land be not previously redeemed upon payment of the balance of the purchase money if any remains unpaid and upon payment of $2 for said transfer. C.O., c. 75, s. 178.

Rights of purchaser

69. The purchaser shall on receipt of the treasurer's certificate of sale become the owner of the land so far as to have all the necessary rights and powers for protecting the same from spoliation or waste until the lands may be redeemed but he shall not knowingly permit any person to cut any trees or underwood growing upon the land or otherwise injure the same nor shall he do so himself but he may make any other use of the land which will not depreciate its value; the purchaser shall not be liable for any damage done to the land without his knowledge while the certificate of sale is in force. C.O., c. 75, s. 179; 1910 (2), c. 6, s. 76.

Statement of lands sold

70. A statement of the land so sold for arrears of taxes with the names of the respective purchasers, the date of sale, the time of redemption and the amount required to redeem shall within thirty days of the date of sale or adjourned sale be made out and signed by the treasurer in duplicate and one copy shall be kept by the treasurer and the other deposited with the secretary and either of the said lists may be inspected at any time during office hours for a fee of ten cents for each lot of which inspection is desired. C.O., c. 75, s. 180.

Inspection of

REDEMPTION OF LAND SOLD.

Redemption of land sold

71. The owner of any land which may hereafter be sold for taxes, or his heirs, executors, administrators or assigns or any other person on his or their behalf but in his or their name only may at any time within one year from the date of sale exclusive of that date redeem the land sold by paying to the treasurer before the hour of three o'clock in the afternoon of the said last day for redemption for the use and benefit of the purchaser or his legal representatives the sum paid by him together with ten per centum thereon and any further or other tax or sum which shall have been imposed or levied against said land and paid by the purchaser before the date of redemption and the treasurer shall give the party paying such redemption money a receipt stating the sum paid and the object thereof and such receipt shall be evidence of the redemption. 1910 (2), c. 6, s. 77.

(2) The treasurer shall before giving such receipt ascertain from the purchaser what further or other tax or sum, if any, has been paid by him under the authority of this section. C.O., c. 75, s. 181.

Sale to be as on date advertised

72. For the purpose of this Ordinance the day of sale shall be the day on which the sale was advertised to take place without reference to any adjournment or adjournments and all certificates shall be dated as of that day. C.O., c. 75, s. 182.

On redemption purchaser's rights cease

73. From the time of payment to the treasurer of the full amount of redemption money required by this Ordinance all rights and interests of the purchaser shall cease. C.O., c. 75, s. 183.

74. Whenever such redemption is effected by a person not specially authorized the treasurer shall mention in the receipt given him for the redemption money the name and designation of the person paying the same, the name of the person on whose behalf the payment is made and every redemption receipt shall be made out in triplicate, one copy shall be given to the person paying the redemption money, one shall remain on file in the office of the treasurer and the third shall be transmitted to the secretary by the treasurer. C.O., c. 75, s. 184. Person not specially authorized redeeming

75. The treasurer shall also immediately after the redemption of any land give notice by registered letter to the party appearing by his books to be the purchaser of the same apprising him of the fact of such redemption and the amount of money paid in for such purpose. C.O., c. 75, s. 185. On redemption notice to purchaser

TRANSFER IN CASE OF NONREDEMPTION.

76. If the land be not redeemed within the period allowed by this Ordinance then on demand of the purchaser, his heirs or assigns or other legal representatives at any time after the expiration of the time limited for the redemption upon payment of the balance of purchase money as aforesaid and the further sum of $2 the treasurer shall prepare and execute and deliver to him or them a transfer of the land sold in form P in the appendix or to the like effect: Land not redeemed Transfer

Provided that any land sold to the school board under the provisions of this Ordinance as hereinbefore provided shall be transferred to the board immediately on the expiration of the time allowed for redemption without charge. C.O., c. 75, s. 186; 1910 (2), c. 6, s. 78. Proviso Transfer to board

77. Such transfer shall upon confirmation of the sale by a judge vest in the purchaser all rights of property which the original holder had therein and shall also purge and release such land from all payments, charges, liens, mortgages and encumbrances of whatever nature and kind other than existing liens of the school district or Crown and local improvement, irrigation district and village taxes and whenever lands are sold for arrears of taxes and the treasurer shall have given a transfer thereof such transfer shall notwithstanding any informality or defect in or preceding such sale be valid and binding to all intents and purposes except as against the Crown. C.O., c. 75, s. 189 in part; 1910 (2), c. 6, s. 79. Transfer exonerates land from prior charges

78. After the expiration of one year from the date of any such transfer the sale and transfer may be set aside only upon it being shown either—

1. That there has been fraud or collusion; or
2. That all taxes have been paid; or
3. That the land was not liable to assessment. C.O., c. 75, s. 187 in part.

ILLEGAL SALES, LIABILITY OF BOARD.

79. In no case shall the board of any district be liable for damages or costs in any suit brought to set aside a tax sale or be School board's liability limited

liable for any damages or costs arising therefrom or incur any liability other than in case of a sale declared void by a competent court that of refunding to the purchaser the amount of money actually received with legal interest. C.O., c. 75, s. 196.

When title in Crown

80. When the title of any land sold for arrears of taxes is vested in the Crown the transfer thereof in whatever form given shall be held to convey only such interest as the Crown may have given or parted with or may be willing to recognize or admit that any person possesses under any colour of right whatever. C.O., c. 75, s. 188.

TAX SALES FUND.

Tax sales fund

81. The treasurer shall keep a separate account in a chartered bank at the joint credit of the chairman and treasurer of all sums paid to him as balances of purchase money on lands sold for arrears of taxes and not redeemed and shall enter in a book the amount received from the purchaser of any lot sold by him over the taxes and charges against said lot with date of sale and of receipt of balance and the aggregate amounts so received shall form a fund to be called the tax sales fund and the treasurer shall in the month of January in each year and on request at any other time furnish a statement to the board giving the particulars respecting such fund and whenever any portion of such fund shall have remained to the credit of the account for six years from the day of sale of the land of the purchase money of which it forms a part without any notice or claim or order for payment having been served on him as hereinafter provided any right to such portion or sum so remaining unclaimed shall be forfeited and thereafter it shall be the absolute property of the board and the said board shall forever be discharged from any claim on account thereof. C.O., c. 75, s. 189.

Lapse to board of unclaimed balances

Claims on tax sales fund

82. Any person claiming to have been interested in any parcel of land sold for taxes and transferred as aforesaid which shall have realized more than the amount due for taxes and charges shall be entitled to claim and receive the said overplus or sum or any portion thereof specified in the order hereinafter mentioned provided that a written notice is served upon the treasurer previous to the time limited for forfeiture upon producing and leaving with the treasurer within six months from the date of service of such notice of claim an order signed by a judge reciting that it had been proved to the satisfaction of the said judge that the claimant was at the time of sale interested in the said land and requiring the school board to pay the said surplus money or the portion thereof specified in the order to the said claimant and such or any judge's order for payment of any part of the said tax sales fund shall be kept by the treasurer and shall be the warrant and authority for making such payment. C.O., c. 75, s. 190; 1910 (2), c. 6, s. 80.

Procedure proof of claim

Judge's order for payment

Petition to judge

83. In seeking to obtain a judge's order any claimant upon the said fund shall in person or by advocate petition the judge in writing for that purpose describing the land sold and setting forth the particulars of the said sale and the title under which the said money is claimed and shall at the same time furnish

such evidence of title as may be necessary for proving his title or interest to the satisfaction of the judge and the facts set forth in the petition shall be verified by affidavit so far as may be necessary to satisfy the judge of the *bona fide* nature of the claim and the said judge may in his discretion require the claimant to serve a notice of his application upon the board or publish the same in any manner he may deem proper or substantiate his claim in any other manner and the judge may in his discretion order said money to be paid over to the clerk of the Supreme Court there to be dealt with in such manner as the court shall order and in such case a copy of his order stating the reason therefor shall be filed in the said court and served upon the treasurer. C.O., c. 75, s. 191.

Evidence

Payment into court

84. The same fees shall be paid upon any application made under the last preceding section as are payable in respect of applications in chambers for a judge's order in any suit for damages in which the same amount is involved. C.O., c. 75, s. 192.

Fees

85. In any case where the judge deems it advisable to order notice to be served upon the board he shall in the final decision of the question if the claimant is successful order the costs of the board to be paid out of the fund in question or by the claimant in case the claimant fails. C.O., c. 75, s. 193.

Costs of school board

86. The fact of claiming any surplus held to the credit of any lots sold for taxes in the said tax sales fund shall be considered an admission of the validity of the sale of the lot in question by the claimant and the said claimant and all claiming by, through or under him shall from and after the time of making such claim be debarred from taking any proceeding to question or set aside such sale notwithstanding that the said claim shall have been made within the time otherwise limited for taking any proceedings to invalidate any tax sale and the said sale shall thereafter be held to be in all respects valid and binding as against the claimant and those claiming by, through and under him as aforesaid. C.O., c. 75, s. 194.

Claim to balance admits validity of sale

87. Within ten days after the commencement of any suit or proceeding to set aside or question a sale for arrears of taxes the plaintiff shall cause the treasurer to be notified in writing of the fact of the action or proceeding having been commenced and the treasurer in such case shall not forfeit any surplus held by him to the credit of the parcel of land in dispute but shall hold the same subject to the order of the court and in case the plaintiff succeeds the court shall order the said surplus to be repaid to the defendant, the tax sale purchaser or his proper representatives and in case the plaintiff fails in such action or proceeding to set aside such sale but proves to the satisfaction of the court that he was at the time of sale the lawful owner of the said land and the person entitled to the said surplus money according to the true intent and meaning of this Ordinance then in such case the court shall order such surplus money to be paid over to the plaintiff or his proper representatives upon and after payment by the said plaintiff of such costs of the defendant as he may have been ordered by the court to pay. C.O., c. 75, s. 195.

If tax sale questioned surplus subject to order of court

Disposition by court

ASSESSMENT AND TAXATION IN TOWN DISTRICTS.

88. The following sections numbers 89 and 90 shall apply to town districts only.

Assessment where district in municipality

89. Where a district is situated within a municipality the trustees may as soon as may be after the final revision of the assessment roll of the municipality make a demand on the council of such municipality for the sum required for school purposes for the then current year. 1913, c. 19, s. 24.

(2) For the purposes of assessment and taxation and for the purposes of this section any portion of a town district which is not within the limits of a municipality shall be deemed to be within the limits of the municipality and the provisions of *The Town Act* or of any special Ordinance creating such municipality and any amendments thereto shall apply to such portion as if the same formed a part of the municipality. C.O., c. 75, s. 120; 1913, c. 19, s. 24; 1914, c. 13, s. 2.

Portion of town district outside to be deemed within town municipality

(3) In the event of a town district being situate partly within a town municipality and partly within a rural municipality for the purposes of assessment and taxation and for the purposes of this section the portion within the rural municipality shall be deemed to be within the town municipality. 1914, c. 13, s. 2.

Validating assessments

(4) Any assessment heretofore made by any town municipality of any portion of the town district situate within a rural municipality shall be as valid as if made after the passing of this Ordinance. 1903 (1), c. 21, s. 6.

(5) In the case of a town school district the rate of taxation on unsubdivided farm lands situated outside of the limits of the town municipality shall not exceed eight mills on the dollar. 1913, c. 8, s. 17; 1913, c. 16, s. 2.

(6) No taxes levied under this Act prior to the first day of January, 1913, in any town district shall be deemed to be invalid for the reason that the rate of taxation exceeded the rate permitted by law at that time. 1914, c. 13, s. 2.

(7) The amendments made to this section at the Second Session of the Third Legislature are hereby declared to be retro-active, but no person who commenced an appeal from the decision or order of any court of confirmation before the 15th day of October, 1914, shall be obliged to pay any of the expenses or costs added or fixed by such decision or order, or incurred in such appeal if his rights of appeal are adversely affected by the said amendments. 1914, c. 13, s. 2.

Property liable to assessment

90. Subject to the provisions of this Ordinance and of *The School Ordinance* the property liable to assessment and taxation for school purposes shall be the property liable to assessment and taxation for municipal purposes.

VILLAGE AND TOWN DISTRICTS.

91. The following sections numbers 92 and 93 shall apply to village and town districts only.

Separate school district

92. In cases where separate school districts have been established whenever property is held by two or more persons as joint tenants or tenants in common the holders of such property being

Protestants and Roman Catholics they shall be assessed in proportion to their interests in the property in the district to which they respectively are ratepayers. C.O., c. 75, s. 127. Assessment of joint owners

93. A company may by notice in that behalf to be given to the secretary-treasurer of any municipality wherein a separate school district is either wholly or in part situated and to the secretary of the board of any public school district in which a separate school has been established and to the secretary of the board of such separate school district require any part of the real property of which such company is either the owner and occupant or not being such owner is the tenant or occupant or in actual possession of and any part of the personal property, if any, of such company liable to assessment to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school supporter in the assessment roll in respect of the property specially designated in that behalf in or by said notice and so much of the property as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes but all other property of the company shall be separately entered and assessed in the name of the company as for public school purposes: Separate school district company may be assessed as supporter

Provided always that the share or portion of the property of any company entered, rated or assessed in any municipality or in any school district for separate school purposes under the provisions of this section shall bear the same ratio and proportion to the whole property of the company assessable within the municipality or school district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up, held and possessed by persons who are Protestants or Roman Catholics, as the case may be, bears to the whole amount of such paid or partly paid up shares or stock of the company. Proviso as to proportion of shares held in district

(2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall for all purposes be deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors. Notice to be continuing

(3) Every such notice so given to such secretary-treasurer shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll and the assessor shall in each year before the completion and return of the assessment roll search for and examine all notices which may be on file in the clerk's office and shall thereupon in respect of said notices if any follow and confirm thereto and to the provisions of this Ordinance in that behalf. Notice open to inspection Assessor to examine

(4) False statements made in any such notice shall not relieve the company from rates. Any company fraudulently giving such notice or making false statements therein shall be liable to a penalty not exceeding $100. Any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to a like penalty. C.O., c. 75, s. 128. Fraudulent notice Penalty

Notice to company

(5) In the event of any company failing to give a notice as hereinbefore provided for, the board of trustees of the separate school district may give to the company a notice in the following form or to the like effect that is to say: The board of trustees of the.....Separate School District No.....of the Province of Alberta hereby give notice that unless and until your company gives a notice as provided for by section 93 of *The School Assessment Ordinance* (C. 30 of 1901) the school taxes payable by your company in respect of land lying within the limits of the..... Public School District No.....of the Province of Alberta will be divided between the said public school district and the said separate school district in shares corresponding with the total amount of the assessed value of lands assessed to individuals for public school purposes and the total amount of the assessed value of lands assessed to individuals for separate school purposes respectively. This notice is given in pursuance of section..... of the Statutes of Alberta. 1910.

Adjustment

(6) Unless and until a company to which notice has been given as aforesaid gives a notice as hereinbefore provided for, the whole of the real property of which the company is either the owner and occupant or not being such owner is the tenant or occupant or in actual possession of, and the whole of the personal property if any of the company liable to assessment shall be entered, rated and assessed upon the assessment roll of the public school district, or of the municipality, as the case may be, as if for public school purposes, but the public school district shall pay to the separate school district a share of the taxes collected from the company in respect of such property equal to the proportion which the assessed value of the property assessed to individuals upon the assessment roll of the separate school district or assessed to individuals as separate school supporters upon the assessment roll of the municipality, as the case may be, bears to the total assessed value of the property assessed to individuals upon the assessment rolls of both the public and separate school districts or upon the assessment roll of the municipality, as the case may be.

Service on company

(7) Service may be effected upon a company of a notice under the foregoing provisions by serving the same upon any person upon whom a writ of summons or other document originating proceedings may be served for the company. 1910 (2), C. 6, s. 55.

93*a*. On the hearing of any appeal brought before a judge with respect to assessment in a village or a town district, if it is made to appear to the judge that land situated in any village or town school district but outside the limits of the village or town municipality has been assessed at a higher relative value than land within such village or town municipality, he may order that a percentage of reduction be made in the assessed value of all lands so situated outside the limits of such municipality so that justice may be done in the school district as between the ratepayers within and those without the limits of the village or town municipality. 1913 (1st Session), c. 19, s. 25.

(2) The judge shall have further power upon the hearing of any such appeal if he is of the opinion that the assessment is so inequitable that substantial justice cannot be done by adjusting

the assessment in such cases as are then on appeal before him or by means of the exercise of the powers conferred by this section he may order that the assessment be quashed and that a new assessment be made. 1913, c. 19, s. 25.

MISCELLANEOUS.

94. In cases where separate school districts have been established where land is owned by a Protestant and occupied by a Roman Catholic or *vice versa* such land shall be assessed to the owner. C.O., c. 75, s. 126.

Separate school district
Assessment of owner

95. The Minister of Education may, by order, notice of which shall be published in the official gazette, declare that for the purposes of this Ordinance and any assessment and taxation for school purposes any rural or town district shall be deemed a village district, and thereafter all the provisions of this Ordinance relating to village districts shall apply thereto:

Provided that the said Minister of Education may also by order, notice of which shall be published in the official gazette, declare that any district, the status of which has been changed as provided for in this section, shall be deemed to be a rural or town district as the case may be, and thereafter all the provisions of this Ordinance relating to rural or town districts shall apply thereto. 1914, c. 13, s. 2.

Minister of Education may change basis of assessment

96. In the case of any district situated wholly or partly within the limits of any municipality which under the provisions of this or any other Ordinance becomes or is declared to be a rural or village district the Lieutenant Governor in Council may make such orders, provisions and appointments as to him may appear necessary for the adjustment, arrangement and settlement of all accounts between any such district and the municipality within which it is wholly or partly situated.

Lieutenant Governor in Council may adjust accounts between municipality and rural or village school

EXECUTIONS AGAINST SCHOOL DISTRICTS.

97. Any writ of execution against the board of any district may be endorsed with a direction to the sheriff to levy the amount thereof by rate and the proceedings thereon shall be the following:

Execution
Direction to sheriff

1. The sheriff shall deliver a copy of the writ and endorsement to the treasurer or leave such copy at the office or dwelling-house of such officer with a statement in writing of the sheriff's fees and of the amount required to satisfy such execution including such amount of interest calculated to some day as near as is convenient to the day of service;

Copy writ and statement for treasurer

2. In case the amount with interest thereon from the day mentioned in the statement be not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of such district and shall in like manner as rates are struck for general school purposes strike a rate on the dollar or on the acre, as the case may be, on the assessable property in the said district sufficient to cover the amount due on the execution with such addition to the same as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will probably be available;

Nonpayment one month sheriff to strike execution rate

Sheriff's precept to treasurer

3. He shall thereupon issue a precept or precepts under his hand and seal of office directed to the said treasurer and shall by such precept after reciting the writ and that the said board had neglected to satisfy the same command the said treasurer to levy or cause to be levied such rate at the time and in the manner by law required in respect to the general school rates;

Column in tax roll

4. At the time for levying the annual rate next after the receipt of such precept the treasurer shall add a column to the tax roll of the said district headed "Execution rate of A.B. *v.* Board of School District....." (*or*, as the case may be, adding a column for each execution if more than one) and shall insert therein the amount by such precept required to be levied upon each person respectively and shall levy the amount of such execution rate as aforesaid; and such treasurer so soon as the amount of such execution or executions is collected shall return to the sheriff the precept with the amount levied thereon;

Levy of rate

Return of precept

Surplus

5. The sheriff shall after satisfying the executions and all fees thereon return any surplus within ten days after receiving the same to the said treasurer for the general purposes of the said district;

Treasurer officer of court

6. The treasurer shall for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such executions be deemed to be an officer of the court out of which the writ issued and as such shall be amenable to the court and may be proceeded against by attachment, *mandamus* or otherwise in order to compel him to perform the duties hereby imposed upon him. C.O., c. 75, s. 212.

Treasurer

98. In the foregoing section the word "treasurer" shall mean—

1. In the case of a village or rural district the treasurer of the school district;

2. In the case of a town district the secretary-treasurer of the municipality. C.O., c. 75, s. 213.

Absence of treasurer or refusal to act

99. In case of the absence of the treasurer of any village or rural district and the refusal or neglect of the board to appoint some other person in his place or in case of the refusal or neglect of the treasurer to comply with any of the provisions of section 97 hereof the sheriff upon application to a judge of the Supreme Court may be invested with full power and authority to assess, levy, collect and enforce payment in the same manner as assessors, collectors and treasurers are authorized to do by this Ordinance of such sum or sums of money as may be required to pay and satisfy the execution or executions and all fees and legal expenses including such allowance for the costs, levy, collection and enforcement of payment as the judge may allow:

Sheriff's powers

Provided that any person may within one month from the date of the notice by the sheriff of assessment by him apply to the sheriff to revise such assessment in any respect as to which such person might have appealed to a court of revision and if the sheriff refuses such application appeal may be had to a judge of the Supreme Court on application to him within eight days after the sheriff's decision of which application notice in writing shall be given to the sheriff, and on such application the judge may proceed as in the case of an appeal from a court of revision. C.O., c. 75, s. 214.

FORMS.

100. The several forms in the appendix to this Ordinance to suit the case or forms to the like effect shall be deemed good, valid and sufficient.

101. This Ordinance shall come into effect on the first day of January, 1902. Commencement

For Rural Districts. (*Sections 6 and 13.*)

APPENDIX.

FORM A.

Assessment and Tax Roll.

Of the.....School District No.....of the Province of Alberta, for the year 191.....

ASSESSMENT							TAXATION										DATE OF POSTING ROLL
No. on roll	Name of ratepayer (Enter name of owner and occupant, if any. If owner is unknown, enter unknown)	Post Office Address	Description of property (State section township, range or number of lots, etc., as case may be)	Number of acres assessed	Date of mailing assessment notice	Secretary's initials To be written after each notice mailed)	Rate of taxation on the acre	Amount of taxes for current year	Arrears of taxes due from Jan. 1, 1902	Total Taxes due	Date of mailing tax notice	Treasurer's initials (To be written after each notice mailed).	Payment of Taxes				
													Amount	Date of Payment			
	1	2	3	4	5	6	7	8	9	10	11	12					
							c	$ c	$ c	$ c					This assessment roll was posted on the.....day of.....191....*Secretary*		
1	Owner														This tax roll was posted on the.....day of.....191...*Treasurer*		
	Occupant																

Note.—The information required in columns 1, 3 and 4 is to be filled in by the assessor (*see sections 6 and 7*), after which the roll is to be delivered to the secretary, who will fill in columns 2, 5 and 6, and then post a copy of the roll and fill in and sign the date of posting (*see section 10*). After the rate per acre is struck (*see section 12*), the secretary will fill in columns 7 and 8 (*see section 13*), and then deliver the roll to the treasurer who will fill in columns 9 and 10, and then post a copy of the roll and fill and sign the date of posting (*see section 14*). The treasurer will also fill in columns 11 and 12. If the secretary is also treasurer he will perform the duty assigned to both.

FORM B.

For Rural Districts.
Section 10 (2).

ASSESSMENT NOTICE.

of

The.....School District No....of the Province of Alberta.
To.....
.....P.O.

You are hereby notified that your name appears on the assessment roll of the above named school district for the year 191.....as the owner (*or* occupant) of.....and that you are assessed for.....acres of land.

You are further notified that if you object to this assessment you must appeal to the justice of the peace nearest to my residence within fifteen days after the posting of the assessment roll otherwise the assessment will stand.

Dated at.....
this.....day of
.....191.....

.....
Secretary.
(*or Secretary-Treasurer*).

Residence of Secretary (*or* Secretary-Treasurer) Sec.....Tp.....R...M...

FORM C.

For Ratepayers in Rural Districts.
(*Section* 11.)

NOTICE OF APPEAL.

To.....
Justice of the Peace,
.....P.O.

You are hereby notified that I appeal from my assessment in The.....
.....School District No.....of the Province of Alberta for (*description of property and number of acres*) on the ground that.....
.....and that I wish to have this my appeal considered by you.

(*Signature*).....

Dated at.....
this.....day of
.....191.....

NOTE.—A fee of $2 must accompany this notice or be delivered to the justice of the peace if the notice is handed to him.

FORM D.

For Rural Districts.
Section 14 (3).

TAX NOTICE.

of

The.....School District No.....of the Province of Alberta.
To.....
.....P.O.

You are hereby notified that you are assessed on the assessment roll of the above named school district for the year 191.... for..... acres of land the taxes on which at the rate of.....cents per acre amount to $.....; and you are further notified that the arrears of taxes due by you to the said district amount to $..... and you are required to pay the same forthwith.

The land for which you are assessed is.....
(*here describe the land*).

.....
Treasurer.
(*or Secretary-Treasurer*).

Dated at.....
this.....day of
.....191.....

For Village Districts. (*Section* 27.)

FORM E.

Assessment Roll.

Of the.....School District No.....of the Province of Alberta, for the year 191.....

No. on roll	Name of ratepayer (Enter name of owner and occupant, if any. If owner is unknown, enter "unknown")	Post Office Address	Description of Real Property (Section, township, range, etc., lot, block, etc., building, etc.)	Value of Real Property		Description of Personal Property (Cattle, horses, etc., machinery, wagons, etc., book accounts, debts, income, etc., etc.)	Value of Personal Property		Total Value of Real and Personal Property		Date of Mailing Assessment Notice	Secretary's Initials (To be written after each notice mailed)
				$	c		$	c		c		
1	Owner											
	Occupant											
2												

NOTE: 1.—The following affidavit should be inscribed upon the roll by the assessor before handing it to the secretary of the district (*see section 33*):

I, *A.B.*, assessor of the above named school district, make oath and say (*or* do solemnly affirm), that the statements contained in the foregoing assessment roll are correct to the best of my knowledge and belief.

Sworn before me at.....in the Province of Alberta, this.....day of.....19....

.....

A J.P.; Com.; or N.P.

2—Upon receipt of the roll the secretary should note thereon the date of filing in the following form (*see section 34*):

Filed this.....day of.....191...

.....*Secretary.*

FORM F.

For Village Districts.
(*Section* 36.)

NOTICE OF SITTING OF COURT OF REVISION.

Notice is hereby given that the assessment roll for The..... S.D. No.....of the Province of Alberta has been completed and the same may be examined at.....and the board of trustees of the said school district will sit as a court of revision to hear assessment appeals at.....on the..... day of.....191...., at the hour of.....o'clock m., and no person who does not appear at the said time and place will be entitled to appeal from the decision of the said court of revision to a judge of the District Court.

Dated at.....
this.....day of
.....191....

.....
Secretary.

FORM G.

For Village Districts.
(*Section* 37.)

ASSESSMENT NOTICE.

of

The.....School District No.....of the Province of Alberta.

To.....
.....P.O.

You are hereby notified that your name appears on the assessment roll of the above named school district for the year 191....as the owner (*or* occupant) of the following property (*give description of property*)..... which is assessed at $.....

The board of trustees of the said district will sit as a court of revision (*mention day, hour and place at which court of revision is to be held*)..... and if you consider that you have been wrongly assessed as above stated you will have an opportunity to make a statement of your case before the said court.

Take notice that if you do not give notice in writing of appeal to the secretary of the board five days previous to the sitting of the court of revision and if you do not appear before the said court either in person or by agent you will not be entitled to appeal from its decision to a judge of the District Court.

.....
Secretary.

Dated at.....
this.....day of
.....191...

FORM H.

For Ratepayers in Village Districts.
(*Section* 38.)

NOTICE OF APPEAL.

To.....
Secretary of.....School District,
.....P.O.

You are hereby notified that I object to my assessment in The..... School District No.....of the Province of Alberta on the ground that.....and that I wish to have my appeal considered by the court of revision.

(*Signature*).....

Dated at.....
this.....day of
.....191...

FORM I.

For Village Districts.
(*Section* 39.)

NOTICE TO PARTY WHOSE ASSESSMENT IS APPEALED AGAINST.

To.....
.....P.O.

Take notice that you are required to attend the court of revision for the S.D. No.....of the Province of Alberta to be held (*give day, hour and place of sitting of the court*) in the matter of the complaint by.....applicant that you are assessed too high (*or* too low *or* not a *bona fide* ratepayer *or as the case may be*).

.....
Secretary.

FORM J.

For Ratepayers in Village Districts.
(*Section* 41.)

NOTICE OF APPEAL.

(From decision of court of revision.)

To.....
Secretary.....School District.

You are hereby notified that I appeal to a judge of the District Court from the decision of the court of revision of The.....School District No.....of the Province of Alberta with respect to my assessment in the said district for (*give description of property and assessed value*).....
on the ground that (*state grounds of appeal*)
.....
(*Signature*).....

Dated at.....
this.....day of
.....191....

For Village Districts. (*Section* 43.)

FORM K.

COLLECTOR'S ROLL.

Of the.....School District No..... of the Province of Alberta, for the year 191.....

No. on roll	Name of Ratepayer (As shown on Assessment Roll. If owner is unknown enter "unknown")	Post Office Address	Assessed Value of Real and Personal Property		Rate of Taxation on the Dollar	Amount of Taxes for Current Year	Arrears of Taxes due	Total Taxes Due	Date of Mailing Tax Notice	Treasurer's Initials (To be written after each notice mailed)	Payment of Taxes		
											Amount		Date
			$	c	(Mills)						$	c	

FORM L.

For Village Districts.
(*Section* 44.)

TAX NOTICE.

The.....School District No.....of the Province of Alberta.
To.....
.....P.O.

You are hereby notified that you are assessed on the assessment roll of the above named school district for the year 191..... for property valued at $.....the taxes on which at.....mills on the dollar amount to $.....; and you are further notified that the arrears of taxes due by you to the said district amount to $..... and you are required to pay the same within thirty days after the date of this notice.

.....
Treasurer.

Dated at.....
this.....day of
.....191...

For Village Districts.
(*Section* 58.)

FORM M.

LIST OF LANDS
in
The.....School District No.....of the Province of Alberta
to be sold for taxes as authorized by *The School Assessment Ordinance.*

Description of Property	Arrears of taxes	Cost of Advertising	Fee under Ordinance	Total charge against each parcel
(Give full and accurate description of property sufficient for registration.)				

Notice is hereby given that unless the arrears of taxes and costs as shown in the above lists are sooner paid I will on the.....day of 191...., at the hour of.....o'clock...m., at.....(*give place of sale*) proceed to sell the lands shown in the above list in respect of which the said arrears and costs are payable.

Date of first insertion in newspaper,
.....191....

.....
Treasurer.

For Village Districts
(*Section* 58.)

FORM N.

(Notice for insertion in Gazette.)

NOTICE.

Notice is hereby given that on the.....day of..... 191...., at the hour of.....at (*give name of place in particular*) there will be offered for sale by public auction in accordance with the terms and provisions of *The School Assessment Ordinance* providing for the sale of lands for arrears of school taxes certain lands situated in township..... range.....west of the.....meridian, being part of the lands forming (*give name of school district*) particulars regarding which lands may be found in the issues of (*give name, dates and place of issue of newspaper*).

.....
Treasurer.

P.O. Address.....

FORM O.

For Village Districts.
(*Section* 69.)

TREASURER'S CERTIFICATE.

This is to certify that a sale of land for taxes due to The..... School District No.....of the Province of Alberta held under the provisions of *The School Assessment Ordinance* (*give name, address and occupation of purchaser*) purchased (*give description of property purchased*) for the sum of $..... (*give purchase price*) and that the said (*give name of purchaser*) has paid thereon the sum of $....., being amount of taxes and costs against the said land.

Upon payment of the balance of the purchase money and upon payment of a fee of $2.00 a transfer of the above mentioned land to the said (*name of purchaser*) or his assigns shall be executed by the treasurer of the said district on his or their demand within one month after the expiration of one year from the date of this certificate if the said land be not previously redeemed as provided in the said Ordinance.

.....
Treasurer.

Dated at.....
this.....day of
.....191..

FORM P.

Village Districts.
(*Section* 77.)

TRANSFER OF LAND ON SALE FOR TAXES.

I,....., of....., being treasurer of The.....School District No..... of the Province of Alberta, by virtue of authority to sell lands for arrears of taxes vested in me by warrant under the hand of the chairman of the board of trustees of the said school district and the seal of the said board and by *The School Assessment Ordinance* do hereby in consideration of the sum of.....dollars paid to me by..... of.....being the price for which the said land was sold at a sale by me on the.....day of..... 191.... for arrears of taxes due on the said land to the said school district transfer to the said.....all that piece of land being In witness whereof I have hereunto set my hand and the seal of the said board of trustees this..... day of.....191....

Signed by the above named.....
.....in the presence of
.....

FORM Q.

(See Section 23 (1).)

CERTIFICATE OF REDEMPTION.

This is to certify that the following lands, viz.:..... as to which an adjudication under the provisions of section 23 of *The School Assessment Ordinance* bearing date the day of.....was made by His Honour.....Judge of the District Court of the Judicial District of.....in the Province of Alberta, have been under the provisions of the said section redeemed, and the said lands are therefore discharged and released from the said adjudication and the effect thereof.

Dated at Edmonton in the Province of Alberta this..... day of.....191....

.....
Minister of Public Works.

CHAPTER 106.

An Ordinance to Regulate Public Aid to Schools.

(Chapter 31 of 1901.)

Repealed 1913 (2nd Session), c. 15, s. 19.

CHAPTER 107.

An Ordinance for the Protection of Useful Birds.

(1902, c. 11.)

Incorporated in *The Game Act*, 1907, chapter 14.

CHAPTER 108.

An Ordinance respecting Drainage.

(1903 (1st Session), c. 6.)

Chapter 18, 1908, substituted.

See also 1913 (1st Session), c. 6.

CHAPTER 109.

An Ordinance respecting the Confirmation of Sales of Land for Taxes.

(Chapter 12 of 1901.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

On application parties interested have notice

1. No application for an order for confirmation of a sale of land for taxes made under the provisions of any Ordinance of the Territories shall be heard by a judge until all persons appearing by the records of the proper land titles office to have any interest in the said land have received notice of such application unless such notice is dispensed with by the judge.

(2) Such notice shall be given by summons of the judge obtained *ex parte* to be served in such manner as the judge may direct and returnable in one month or such longer time as the judge may direct after service thereof.

Right to redeem

2. Any person interested in such land may at any time before the time of hearing such application redeem the said land by paying to the purchaser or his assignee the amount of the purchase money paid and any further sums charged against the said land and lawfully paid together with twenty per cent. thereon and such costs as the judge may allow.

(2) Upon the return of any summons granted under the provisions of section 1 if it is made to appear to the judge that any person who is entitled and desires to redeem the said land has been unable to do so because of his inability to ascertain the proper amount to be paid to redeem the said land the judge may adjourn the hearing of the said application and may order an account to be taken or may give such other directions as to him shall seem meet. 1903 (1st Session), c. 9, s. 1.

After redemption purchaser's interest to cease

3. From the time of payment to the purchaser or his assignee of the amounts mentioned in the next preceding section all right and interest of the purchaser in the said land shall cease and determine.

Transfer *prima facie* evidence

4. Subject to the foregoing provisions on any application for an order for such confirmation the production of a transfer of the said land executed by the proper officer shall be *prima facie* evidence that all conditions have existed and all acts been performed and all requirements of the Ordinance in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for.

When transfer conclusive evidence

(2) If such application be not made until after the expiration of one year from the date of the transfer such transfer shall be conclusive evidence that all conditions have existed and all

acts been performed and all requirements of the Ordinances in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for except on one of the following grounds:

1. Fraud or collusion;
2. That all taxes have been paid;
3. That the land was not liable to assessment.

Repeal

5. Chapter 10 of the Ordinances of 1900 is hereby repealed.

6. The provisions of this Ordinance shall apply to all sales of land for taxes heretofore or hereafter made under the authority of any Ordinance of the Territories or any Statute of the province, notwithstanding any provision contained in any such Ordinance or Statute, unless it shall be expressly provided by such Ordinance or Statute that the provisions of this Ordinance shall not apply. 1913 (1st Session), c. 9, s. 40.

(2) The term "Ordinance" or "Ordinance of the Territories" used herein shall include Statute. 1913 (1st Session), c. 9, s. 40.

7. No transfer of land made in pursuance of a sale for taxes under the authority of any Ordinance or Statute shall be registered under the provisions of *The Land Titles Act* until such sale has been confirmed under the provisions of this Ordinance. 1913 (1st Session), c. 9, s. 40.

CHAPTER 110.

An Ordinance respecting Hail Insurance.

(1903 (1st Session), c. 7.)

Chapter 19, 1910 (2nd Session), substituted, but since repealed.

See Chapter 18, 1915.

CHAPTER 111.

An Ordinance respecting the Voluntary Winding Up of Joint Stock Companies.

(Chapter 13 of 1903, 1st Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Companies Winding Up Ordinance*, 1903."

INTERPRETATION.

Interpretation

2. Where the expressions following occur in this Ordinance they shall unless a contrary intention appears be construed as follows:

Company

1. "Company" shall mean any company or association to which this Ordinance is applicable;

Court Power of judge

2. "Court" shall mean the Supreme Court of the North-West Territories, and any judge of the court may at any time whether sitting in chambers or in court exercise all the powers conferred by this Ordinance upon the court;

Contributory

3. "Contributory" shall mean any person liable to contribute to the assets of a company under this Ordinance in the event of the same being wound up, and in all proceedings prior to the final determination of such persons any person alleged to be a contributory, and shall also include the personal representative or representatives of any such person;

Extraordinary resolution

4. "Extraordinary resolution" shall mean a resolution passed by a majority of not less than three-fourths of such members of the company for the time being entitled to vote as may be present in person, or by proxy in cases where by the Ordinance or charter or instrument of incorporation or the regulations of the company proxies are allowed, at any general meeting of which notice specifying the intention to propose such resolution has been duly given;

Special resolution

5. "Special resolution" shall mean a resolution passed in the manner necessary for an extraordinary resolution where the resolution after having been so passed as aforesaid has been confirmed by a majority of such members entitled according to the Ordinance, charter or instrument of incorporation or the regulations of the company to vote as may be present, in person or by proxy, at a subsequent general meeting of which notice has been duly given and held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which the resolution was first passed;

Members

6. "Members" shall mean those persons only who for the time being are entitled to vote at general meetings of the company.

APPLICATION OF ORDINANCE.

Application of Ordinance

3. This Ordinance shall apply to all incorporated companies or associations incorporated by the Legislature of the Territories or under the authority of any Ordinance of the Territories.

WHEN COMPANIES MAY BE WOUND UP.

4. A company may be wound up under this Ordinance—

When companies may be wound up voluntarily

1. Where the period, if any, fixed for the duration of the company by the Ordinance, charter or instrument of incorporation has expired; or where the event, if any, has occurred upon the occurrence of which it is provided by the Ordinance or charter or instrument of incorporation that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up;

On special resolution

2. Where the company has passed a special resolution requiring the company to be wound up;

On extraordinary resolution

3. Where the company though it may be solvent as respects creditors has passed an extraordinary resolution to the effect that it has been proved to the satisfaction of the members thereof that the company cannot by reason of its liabilities continue its business and that it is advisable to wind up the same.

When by order of the court

5. Where no such resolution has been passed as mentioned in the next preceding section, the court may, on the application of a contributory, make an order for winding up in case the court is of opinion that it is just and equitable that the company should be wound up.

Commencement of winding up

6. A winding up shall be deemed to commence at the time of the passing of the resolution authorizing the winding up or the making of the order directing the winding up as the case may be.

CONSEQUENCES OF COMMENCING TO WIND UP.

Consequences of commencing to wind up

7. The following consequences shall ensue upon the commencement of the winding up of a company under the authority of this Ordinance:

Extent to which company to exist after commencement of winding

1. The company shall, from the date of the commencement of the winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof; and any transfers of shares, except transfers made to or with the sanction of the liquidators, or any alteration in the status of the members of the company, after the commencement of the winding up, shall be void, but the corporate existence and all the corporate powers of the company shall, notwithstanding it may be otherwise provided by the Ordinance, charter or instrument of incorporation, continue until the affairs of the company are wound up;

Property of company

2. Subject to the provisions of section 10 hereof the property of the company shall be applied in satisfaction of its liabilities *pari passu;* and subject thereto and to the charges incurred in winding up its affairs shall, unless it is otherwise provided by the Ordinance, charter or instrument of incorporation, be distributed among the members according to their rights and interests in the company;

3. The company in general meeting, or in default thereof the court, shall appoint such persons or person as the company or court thinks fit to be liquidators or a liquidator for the purpose of winding up the affairs of the company and distributing the property and may fix the remuneration to be paid to them or to him, and they or he shall give such security as the contributories or the court may determine; Appointment of liquidators Remuneration Security

4. If one person only is appointed liquidator all the provisions herein contained in reference to several liquidators shall apply to him; One liquidator

5. Upon the appointment of liquidators all the powers of the directors shall cease except in so far as the company in general meeting, or the liquidators, may sanction the continuance of such powers; Powers of directors to cease

6. Where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of the appointment, or at a subsequent meeting of the company, or in default of such determination, by any number of the liquidators not less than two; Powers of several liquidators

7. The members of the company may at any meeting appoint one or more inspectors to superintend and direct the proceedings of the liquidators in the management and winding up of the estate; and in case of an inspector or inspectors being appointed all the powers of the liquidator shall be exercised subject to the advice and direction of such inspector or inspectors; and the members of the company may also at any subsequent meeting held for that purpose revoke any such appointment; and upon such revocation or in case of death, resignation or absence from the Territories of an inspector, may appoint another in his stead; and such inspector may be paid such remuneration as the members of the company may determine; Appointment of inspectors Revocations Remuneration

8. If one person only is appointed inspector or if by reason of death, resignation, absence from the Territories or otherwise there is only one inspector all the provisions herein contained in reference to inspectors shall apply to such sole inspector; One inspector

9. The members of the company may at any meeting pass any resolution or order directing the liquidators how to dispose of the property, real or personal, of the company; and in default of their doing so the liquidators shall be subject to the directions, orders and instructions which they from time to time receive from the inspectors, if any, with regard to the mode, terms and conditions on which they may dispose of the whole or any part of the property of the company. Directions as to disposal of property of the company by liquidation

GENERAL POWERS OF LIQUIDATORS.

8. The liquidators may be described in all proceedings by the style of *A.B.*, and *C.D.*, the liquidators of (*the particular company in respect of which they are appointed*)," and shall have power to do the following things: Description and general power of liquidator

1. To bring or defend any action, or other legal proceeding in the name and on behalf of the company; Bring actions

2. To carry on the business of the company so far as may be necessary for the beneficial winding up of the same; Carry on business

3. To sell the real and personal property of the company by public auction or private contract, according to the ordinary Sell property

mode in which such sales are made, with power to transfer the whole property to any person or company, or to sell the same in parcels, and on such terms as shall seem most advantageous; but no sale of the assets *en bloc* shall be made without the previous sanction of the contributories given at a meeting called for that purpose;

Sale of debts

4. In case, after having acted with due diligence in the collection of the debts, the liquidators find that there remain debts due the attempt to collect which would be more onerous than beneficial to the estate, they shall report the same to the members of the company or inspectors, if any; and with their sanction the liquidators may sell the same by public auction after such advertisement thereof as the members of the company or the inspectors, if any, may order; and pending such advertisement the liquidators shall keep a list of the debts to be sold, open to inspection at their office, and shall also give free access to all documents and vouchers explanatory of such debts; but all debts amounting to more than $100 shall be sold separately except as herein otherwise provided;

Draw, etc., bills and notes

5. To draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company; and to raise upon the security of the assets of the company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or endorsing of such bill of exchange or promissory note on behalf of the company shall have the same effect with respect to the liability of the company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of carrying on the business thereof;

Take out letters of administration to estate of deceased contributories and collect debts

6. To take out, if necessary, in their official name, letters of administration to the estate of any deceased contributory; and to do in their official name any other act which may be necessary for obtaining payment of any money due from a contributory or from his estate, and which act cannot be conveniently done in the name of the company; and in all cases where the liquidators take out letters of administration, or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall for the purpose of enabling them to take out such letters or recover such money be deemed to be due to the liquidators themselves;

Execute deeds

7. To execute in the name of the company all deeds, transfers, discharges, assignments, receipts and other documents;

Other things

Company's seal

8. To do and exercise all other acts and things that may be necessary for the winding up of the affairs of the company and the distribution of its assets; and for such purposes to use when necessary the company's seal.

Time for creditors to send in claim may be fixed

9. The liquidators may fix a certain day on or before which creditors of the company and others having claims thereon are to send in their claims.

(2) Such day shall not be less than two months from the first publication of notice thereof.

Liquidators may distribute assets after expiration of time fixed

(3) Where liquidators have given notice of the said day by publication in an issue of a newspaper published at or nearest to the chief place of business of the company, in each of the first four weeks of said two months, the liquidator shall at

the expiration of the time named for sending in such claims be at liberty to distribute the assets of the company, or any part thereof, amongst the parties entitled thereto having regard to the claims of which the liquidators have then notice and the liquidators shall not be liable for the assets, or any parts thereof, so distributed to any person of whose claim such liquidators had not notice at the time of distributing the said assets or part thereof, as the case may be; but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow assets into the hands of the person who may have received the same.

Priority of wages or salary

10. In distributing the assets of the company under the provisions of this Ordinance the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order, or within one month before the making thereof not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims.

Arrangements may be authorized with creditors

11. The liquidators may, with the sanction of an extraordinary resolution of the company, or of the court, make such compromise or other agreement as they deem expedient, with any creditors, or persons claiming to be creditors, or persons having or alleging to have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the company, or whereby the company may be rendered liable.

Power to compromise with debtors and contributories

Take security

12. The liquidators may, with the sanction of an extraordinary resolution of the company, or of the court, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and any contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets of the company, or the winding up of the company, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon; with power for the liquidators to take any security for the discharge of such debts or liabilities, and to give a complete discharge in respect of all or any such calls, debts or liabilities.

Power to accept shares, etc., as a consideration for sale of property to another company

13. Where a company is proposed to be or is in the course of being wound up, and the whole or a portion of its business property is proposed to be transferred or sold to another company, the liquidators of the first mentioned company with the sanction of a special resolution of the company by whom they were appointed conferring either a general authority on the liquidators, or an authority in respect of any particular arrangement, may receive in compensation or in part compensation for such transfer or sale shares or other like interest in such other company, for the purpose of distribution amongst the members of the company which is being wound up, or may, in lieu of receiving cash,

shares, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company.

Sale or arrangements by liquidators binding unless a member objects

(2) Any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the members of the company which is being wound up, subject to the proviso that if any member of the company which is being wound up, who has not voted in favour of such special resolution passed by the company of which he is a member, at either of the meetings held for passing the same, expresses his dissent from any such special resolution, in writing, addressed to the liquidators or one of them, and left at the head office of the company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient members may require the liquidators to do one of the following things as the liquidators may prefer, that is to say, either—

Proceedings on objections

(*a*) To abstain from carrying such resolution into effect; or

(*b*) To purchase the interest held by such dissentient member at a price to be determined in manner hereinafter mentioned, such purchase money to be paid before the company is dissolved, and to be raised by the liquidators in such manner as may be determined by special resolution.

Special resolution not invalid because prior to resolution to wind up

(3) No special resolution shall be deemed invalid for the purposes of this section by reason that it is passed antecedently to or concurrently with any resolution for winding up the company or for appointing liquidators.

Price payable to objecting member

(4) The price to be paid for the purchase of the interest of any dissentient member may be determined by agreement but if the parties dispute about the same such dispute shall be settled by arbitration.

Mode of determining price

(5) For the purposes of the arbitration the liquidators shall appoint one arbitrator and the dissentient member shall appoint another and the two arbitrators thus chosen or in case they disagree the court shall appoint a third arbitrator.

Arbitration

Majority to determine disputes

(6) The arbitrators thus chosen, or any two of them, or the arbitrator of one party and an arbitrator appointed by the court in case of the refusal or neglect of either party to appoint an arbitrator shall finally determine the matter in dispute.

Umpire

(7) In case of the disagreement of two arbitrators, where two only are acting, they may appoint an umpire whose award shall be conclusive.

LIABILITY OF CONTRIBUTORIES.

Liquidators to settle list of contributories

14. As soon as may be after the commencement of the winding up of a company the liquidators shall settle a list of contributories.

Shareholders' liability to contribute

(2) Every shareholder or member of the company or his representative is liable to contribute the amount unpaid on his shares of the capital, or on his liability to the company or to its members or creditors, as the case may be, under the Ordinance, charter or instrument of incorporation of the company; and the amount which he is liable to contribute shall be deemed assets of the company and to be a debt due to the company payable as may be directed or appointed under this Ordinance.

(3) Where a shareholder has transferred his shares under circumstances which do not by law free him from liability in respect thereof, or where he is by law liable to the company or its contributories or any of them to an amount beyond the amount unpaid on his shares, he shall be deemed a member of the company for the purposes of this Ordinance and shall be liable to contribute as aforesaid to the extent of his liabilities to the company or the contributories independently of this Ordinance and the amount which he is so liable to contribute shall be deemed assets and a debt as aforesaid. Case of transfer of shares by shareholders

(4) The list of contributories shall distinguish between persons who are contributories as being representatives of or liable for others. Contributories liable in a representative character to be distinguished

(5) Any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories. List to be evidence of liability

15. The list of contributories may be settled by the court in which case the liquidators shall make out and leave at the chambers of the judge a list of the contributories of the company; and such list shall be verified by the affidavit of the liquidators or one of them and shall, so far as is practicable, state the respective addresses of, and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories; and the list may from time to time by leave of the judge be varied or added to by the liquidators. Settlement of list by the court

(2) Upon the list of contributories being left at the chambers of the judge, the liquidators shall obtain an appointment for the judge to settle the same, and shall give notice in writing of the appointment to every person included in the list, and stating in what character and for what number of shares, or interest, such person is included in the list; and in case any variation in or addition to the list is at any time made by the liquidators, a similar notice in writing shall be given to every person to whom the variation or addition applies; all such notices shall be served four clear days before the day appointed to settle such list, or such variation or addition. Procedure on settling list by the court

(3) The result of the settlement of the list of contributories shall be stated in a certificate by the clerk or registrar of the court; and certificates may be made from time to time for the purpose of stating the result of the settlement down to any particular time, or to any particular person, or stating any variation of the list. Certificate of result of settlement

16. If a person made a contributory as personal representative of a deceased contributory makes default in paying any sum to be paid by him proceedings may be taken for administering the estate of the deceased contributory and for compelling payment thereout of the money due. Provision for administration if personal representative fails to pay

17. The liquidators may, at any time and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories, for the time being settled on the list of contributories, to pay, to the extent of their liability, all or any sums the liquidators deem necessary to satisfy the debts and liabilities of the company and the costs, charges and Calls on contributories

expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the same.

LIQUIDATORS' DUTIES.

Employment of counsel

18. Liquidators shall not employ any advocate without the consent of the inspectors, or of the members of the company.

Liquidators or inspectors not to purchase assets of company

(2) No liquidator or inspector shall purchase, directly or indirectly, any part of the stock-in-trade, debts or assets of any description of the estate.

Deposit in bank by liquidators

(3) The liquidators shall deposit at interest in some chartered bank, to be indicated by the inspectors or by the court, all sums of money which they may have in their hands belonging to the company whenever such sums amount to $100.

Separate deposit account to be kept

(4) Such deposits shall not be made in the name of the liquidators generally, on pain of dismissal; but a separate deposit account shall be kept for the company of the moneys belonging to the company, in the name of the liquidators as such, and of the inspectors, if any; and such moneys shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there be any.

Withdrawal from account

Liquidators to produce bank pass book at meetings, etc.

(5) At every meeting of the members of the company the liquidators shall produce a bank pass book showing the amount of deposits made for the company, the dates at which the deposits were made, the amounts withdrawn and dates of such withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass book was not produced at the meetings.

Liquidators to produce bank pass book when ordered

(6) The liquidators shall also produce the pass book whenever so ordered by the court at the request of the inspectors or a member of the company, and on their refusal to do so they shall be treated as being in contempt of court.

Liquidator and inspector to be subject to summary jurisdiction

(7) Every liquidator or inspector shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as the ordinary officers of the court are subject to its jurisdiction; and the performance of his duties may be compelled, and all remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in, or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the court on summary application, and not by any action, attachment, seizure or other proceeding of any kind whatever; and obedience by a liquidator to such order may be enforced by the court under the penalty of imprisonment as for contempt of court or disobedience thereto; or he may be removed in the discretion of the court.

Obedience, how enforced

EXPENSES.

Costs and expenses

19. All costs, charges and expenses properly incurred in the winding up of a company, including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

Remuneration of liquidators in case no other fixed

20. In case of there being no agreement or provision fixing the remuneration of the liquidators they shall be entitled to a commission on the net proceeds of the estate of the company of every kind after deducting expenses and disbursements, such commission to be five per cent. on any amount realized not exceeding $1,000, the further sum of two and a half per cent. on any amount realized in excess of $1,000 and not exceeding $5,000, and a further sum of one and a quarter per cent. on any amount realized in excess of $5,000; which said commission shall be in lieu of all fees and charges for their services.

MEETINGS.

Filling vacancies in office of liquidator

21. If a vacancy in the office of liquidators appointed by the company occurs by death, resignation or otherwise, a general meeting for the purpose of filling up the vacancy may be convened by the liquidator or liquidators, if any, or if not, then by any member of the company.

General meetings during winding up

(2) The liquidators may from time to time, during the continuance of the winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or extraordinary resolution, or for any other purpose they think fit.

Annual meetings

(3) In the event of the winding up continuing for more than one year the liquidators shall summon a general meeting of the company at the end of the first year and of each succeeding year from the commencement of the winding up, or as soon thereafter as may be convenient; and shall lay before the meeting an account showing their acts and dealings and the manner in which the winding up has been conducted during the preceding year.

Liquidators to call meetings of members of company

(4) The liquidators shall also call meetings of the members of the company whenever required in writing so to do, by the inspector or five members of the company or by the court, and they shall state succinctly in the notice calling any meeting the purpose thereof.

Subsequent meetings

(5) The members of the company may, from time to time at any meeting, determine where subsequent meetings shall be held and in the absence of such a resolution all meetings of the members of the company shall be held at the office of the liquidators or of the company, unless otherwise ordered by the court.

Where meetings to be held

One mode of giving notice of meeting

(6) Notice of any meeting shall for the purposes of this Ordinance be deemed to be duly given, and the meeting to be duly held, whenever the notice is given, and meeting held in manner prescribed by the Ordinance, charter or instrument of incorporation or by the regulations of the company, or by the court; or notice of the meeting may be given by publication thereof for at least two weeks in the official gazette, or by such other or additional notice as the court or the inspectors or the company may direct, and, except where the court otherwise directs, by addressing notices of the meeting to the contributories within the Territories, and to the representatives within the Territories of contributories who reside out of the Territories; and the notices shall be posted at least ten days before the day on which the meeting is to take place, the postage being prepaid by the liquidators.

Another mode of notice of meeting

Voting to be in person or by proxy

(7) No member of the company shall vote at any meeting unless present personally, or represented by some person having a written authority to be filed with the liquidators to act on his behalf at the meeting, or generally; and when a poll is taken reference shall be had to the number of votes to which each member is entitled by the Ordinance, charter or instrument of incorporation or the regulations of the company.

ASSISTANCE OF THE COURT.

Applications to the court

22. The liquidators or any member of the company may apply to the court to determine any question arising in the matter of the winding up; or to exercise all or any of the powers following; and the court, if satisfied that the determination of the question, or the required exercise of power, will be just and beneficial, may accede wholly or partially to the application on such terms and subject to such conditions as the court thinks fit; or it may make such other order on the application as the court thinks just.

Stay of action against company before order to wind up

(2) The court at any time after the issue of a summons for winding up a company and before making an order for winding up a company, may restrain further proceedings in any action or proceeding against the company other than under any other authority over which the Legislative Assembly of the Territories has no jurisdiction in and upon such terms as the court thinks fit.

Stay of action after commencement of winding up

(3) The court may make an order that no action or other proceedings shall be proceeded with or commenced against the company except with the leave of the court, and subject to such terms as the court may impose, and a copy of such order shall forthwith be advertised as the court may direct; but this subsection shall not apply to proceedings under any Act of the Parliament of Canada under its jurisdiction in matters of bankruptcy and insolvency or otherwise.

Settlement of list of contributories

(4) The court may settle the list of contributories.

Meetings of members of company may be ordered

(5) The court may direct any meeting of the members of the company to be summoned, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes and may appoint a person to act as chairman of any such meeting and to report the result of such meeting to the court.

Chairman

Order for delivery by contributories and others of property, etc.

(6) The court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker, or agent or officer of the company, to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to or into the hands of the liquidators, any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being and to which the company is *prima facie* entitled.

Order for payment by contributories

(7) The court may make an order on any contributory for the time being settled on the list of contributories directing payment to be made, in manner in the order mentioned, of moneys due from him or from the estate of the person whom he represents to the company, exclusive of moneys which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the court in pursuance of this Ordinance.

Power to order payment into a bank to account of official liquidator

(8) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into any bank appointed for the purpose in any general order made under this Ordinance, or in default of such bank into a bank named in the order, or into a branch of such bank, to the account of the liquidators instead of to the liquidators, and the order may be enforced in the same manner as if it had directed payment to the liquidators.

Order on contributory to be conclusive evidence except as to real estate of deceased

(9) An order made by the court in pursuance of this Ordinance upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due or ordered to be paid, are due; and all other pertinent matters stated in the order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Inspection of books

(10) The court may make such order for the inspection by the creditors and contributories of the company of its books and papers as the court thinks just; and any books and papers in the possession of the company may be inspected in conformity with the order of the court, but not further or otherwise.

Examination of persons before court or liquidator

(11) The court may, at any time after the commencement of the winding up of the company, summon to appear before the court or liquidators any officers of the company, or any other person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade, dealings, estate or effects of the company; and in case of refusal to appear or answer the questions submitted he may be committed and punished by the judge as for a contempt.

Productions of books, etc.

(12) The court may require any such officer or person to produce any books, papers, deeds, writings or other documents in his custody or power relating to the company.

Penalty on person summoned not attending

(13) If any person so summoned, after being tendered the fees to which a witness is entitled in the court, refuses to come before the court or liquidators at the time appointed, having no lawful impediment, the court may cause such person to be apprehended and brought before the court or liquidators for examination.

Mode of examination

(14) The court or liquidators may examine upon oath any person appearing or brought before them in the manner aforesaid concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every such person and require him to subscribe the same.

Subpoenas

(15) In any proceeding under this Ordinance the court may order a writ of *subpoena ad testificandum* or of *subpoena duces tecum* to issue commanding the attendance as a witness of any person within the limits of the Territories.

Liens

(16) Where any person claims a lien on papers, deeds or writings or documents produced by him such production shall be without prejudice to the lien; and the court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Power of court to assess damages against delinquent directors, etc.

(17) Where in the course of winding up a company under this Ordinance it appears that any past or present director, manager, liquidator or any officer of the company has misapplied

or retained in his own hands or become liable or accountable for moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company the court may, on the application of a liquidator or of any contributory of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, liquidator or other officer, and compel him to repay the moneys so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the court thinks just.

Proceedings by contributories at their own expense and for their own benefit only

23. If at any time a member of the company desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the company, and the liquidators, with or without the authority of the members of the company or of the inspectors, refuse or neglect to take such proceeding, after being duly required so to do such member of the company shall have the right to obtain an order of the court, authorizing him to take such proceeding in the name of the liquidators or company, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidators as the court may prescribe; and thereupon any benefit derived from such proceeding shall belong exclusively to the member of the company instituting the same, for his benefit and that of any other member of the company who may have joined him in causing the institution of such proceeding; but if, before such order is granted the liquidators signify to the court their readiness to institute such proceeding for the benefit of the company, an order shall be made prescribing the time within which they shall do so and in that case any advantage derived from such proceeding shall appertain to the company.

Appointment by court

24. If from any cause there is no liquidator acting either provisionally or otherwise the court may, on the application of a member of the company, appoint a liquidator or liquidators.

Removal of liquidator

(2) The court may also on due cause shown remove a liquidator and appoint another liquidator.

The case of no liquidator

(3) When there is no liquidator the estate shall be under the control of the court until the appointment of a new liquidator.

Rescinding of resolution, etc., by the court

25. Any one or more members of the company whose shares therein in the aggregate exceed $500, who may be dissatisfied with the resolution adopted or orders made by the members of the company of the inspectors, or with any action of the liquidators for the disposal of the property of the company, or any part thereof, or for postponing the disposal of the same, or with reference to any matter connected with the management or winding up of the estate, may, within four clear days after meeting of the members of the company in case the subject of dissatisfaction is a resolution or order of the members of the company or within four clear days after becoming aware or

having notice of the resolution of the inspectors or action of the liquidators where such resolution or action is the subject of dissatisfaction, give to the liquidators notice that he or they will apply to the court, on the day and at the hour fixed by such notice not being later than four clear days after such notice has been given or as soon thereafter as the parties may be heard before the court, to rescind such resolutions or orders.

Confirmation or variation of resolutions, etc.

(2) The court, after hearing the inspectors, the liquidators and members of the company present at the time and place so fixed, may approve, rescind or modify the said resolutions or orders.

Costs

(3) In case of the application being refused the party applying shall pay all costs occasioned thereby, and in other cases the costs and expenses shall be in the discretion of the court.

Appeals

26. Any party who is dissatisfied with any order or decision of the court in any proceeding under this Ordinance may appeal therefrom to the court *en banc*.

Security for damages and costs

(2) No such appeal shall be entertained unless the appellant has, within eight days after the rendering of such order or decision, taken proceedings on the said appeal in accordance with the rules of the court in respect to appeals from final judgments nor unless within the said time he has given security by way of deposit or otherwise to the satisfaction of the court that he will duly prosecute the said appeal and pay such damages and costs as may be awarded to the respondent.

Dismissal of appeal

(3) If the party appellant does not proceed with his appeal according to the law or the rules of practice the court, on the application of the respondent, may dismiss the appeal and condemn the appellant to pay the respondent the costs by him incurred.

Judgment final

(4) The judgment of the court *en banc* on such appeal shall be final.

Powers of court to be in addition to other powers

27. Any powers by this Ordinance conferred on the court shall be deemed to be in addition to any other power of instituting proceedings against any contributory, or against any debtor of the company for the recovery of any call or other sum due from such contributory or debtor, or his estate, and such proceedings may be instituted accordingly.

Enforcing of orders

28. All orders made by the court may be enforced in the same manner as orders of such court made in any action pending therein.

MATTERS OF PRACTICE.

Petition on winding up

29. Any application to the court for the winding up of the company under this Ordinance shall be by originating summons which may be issued at the instance of the company, or any contributory or contributories of the company and thereafter the matter shall proceed as a cause in court and be subject, except where inconsistent herewith, to all the rules applicable to ordinary causes.

Course of court on hearing petition

(2) Upon hearing the summons the court may dismiss the same, with or without costs, or may adjourn the hearing conditionally or unconditionally, and may make an interim order, or any other order that it deems just.

Stay of proceedings

30. The court, at any time after an order has been made for winding up a company, may, upon the application of any contributory to be made by summons, and upon proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the court deems fit.

Rules of procedure in ordinary cases, etc., to apply

Amendments

31. The rules of procedure for the time being as to amendments of pleadings and proceedings in the court shall, as far as practicable, apply to all pleadings and proceedings under this Ordinance; and any court before whom such proceedings are being carried on shall have full power and authority to apply the appropriate rules as to amendments to the proceedings so pending; and no pleading or proceeding shall be void by reason of any irregularity or default which can or may be amended or disregarded under the rules and practice of the court.

Books, etc., to be *prima facie* evidence

32. All books, accounts and documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Affidavit, before whom sworn

33. Any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Ordinance may be sworn or made before any person authorized to take affidavits for use in the Supreme Court of the North-West Territories.

DISSOLUTION OF COMPANY.

Account of winding up to be made by liquidator to a general meeting

34. As soon as the affairs of the company are fully wound up the liquidators shall make up an account showing the manner in which the winding up has been conducted and the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidators; the meeting shall be called by advertisement specifying the time, place and object of such meeting; and the advertisement shall be published one month at least previously thereto.

Return of holding of meeting to be sent to Registrar of Joint Stock Companies Dissolution of company

(2) The liquidators shall make a return to the Registrar of Joint Stock Companies of such meeting having been held and of the date at which the same was held; which return shall be filed in his office; and on the expiration of three months from the date of the filing of such return the company shall be deemed to be dissolved.

Order for dissolution

Report to the Registrar

35. Whenever the affairs of the company have been completely wound up the court may, before the expiration of the said period of three months, make an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly; which order shall be reported by the liquidators to the Registrar of Joint Stock Companies.

36. If the liquidators make default in transmitting to the Registrar of Joint Stock Companies the return mentioned in section 34 hereof, or in reporting the order, if any, declaring the company dissolved, they shall be severally liable to a penalty not exceeding $20 for every day during which they are in default. Penalty on default in reporting by liquidator or in making return

37. All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the company shall be left for three years in the bank where they are deposited, and if still unclaimed shall then be paid over by such bank, with interest accrued thereon, to the Territorial Treasurer, and, if afterwards duly claimed, shall be paid over to the person entitled thereto upon satisfactory proof of his claim being made. Disposition of unclaimed dividends

38. Every liquidator shall, within thirty days after the date of the dissolution of the company, deposit in the bank appointed or named as hereinbefore provided for, any other money belonging to the estate then in his hands not required for any other purpose authorized by this Ordinance, with a sworn statement and account of such money, and that the same is all he has in his hands; and he shall be subject to a penalty not exceeding $10 for every day on which he neglects or delays such payment; and he shall be a debtor to His Majesty for such money and may be compelled as such to account for and pay over the same. Deposit by liquidator after dissolution of moneys with sworn statement; Penalty on omission

(2) The money so deposited shall be left for three years in the bank and shall be then paid over, with interest accrued thereon, to the Territorial Treasurer, and if afterwards claimed shall be paid over to the person entitled thereto upon satisfactory proof of his claim being made. Money to remain on deposit for three years

(3) Where a company has been wound up under this Ordinance and is about to be dissolved the books, accounts, and documents of the company and of the liquidators may be disposed of in such a way as the company by an extraordinary resolution directs. Disposal of books, etc., after winding up

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the company or liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any party claiming to be interested therein. After five years responsibility as to custody of books, etc., to cease

RULES OF COURT.

39. The Supreme Court, or any three of the judges thereof, may, from time to time, make and frame and settle the forms, rules and regulations to be followed and observed in proceedings under this Ordinance, and may make rules as to costs, fees and charges which shall or may be had, taken or paid in all such cases by or to advocates or counsel, and by or to officers of the court, whether for the officers or for the Crown, and by or to sheriffs, or other persons whom it may be necessary to provide for, or for any service performed or work done under this Ordinance. Judges to make rules and forms as to proceedings and costs, etc.

Practice till allowance of rules, etc.

(2) Until such forms, rules and regulations are so approved, and subject to any which may be approved, the practice under this Ordinance shall, in cases not hereinbefore provided for, be the same, as nearly as may be, as under *The Winding Up Act*, and the rules of the said court made thereunder or applicable thereto.

CHAPTER 112.

An Ordinance respecting Trust Companies.

(Chapter 15 of 1903, 1st Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Short title

1. This Ordinance may be cited as "*The Trust Companies Ordinance.*"

Trust company, meaning of

2. In this Ordinance the expression "trust company" shall mean a company incorporated for the purpose of exercising any of the powers set forth in the schedule to this Ordinance and authorized whether before or after the passing of this Ordinance and whether by special Ordinance or otherwise to carry on its business in the Territories.

Compliance with Ordinance necessary

3. No company shall be incorporated or otherwise authorized to execute the office of executor, administrator, trustee, receiver, assignee, guardian of a minor's estate or of committee of a lunatic's estate unless such company has complied with the provisions of this Ordinance.

Company not to be appointed guardian of infant or lunatic

4. No company shall be authorized to become or be appointed guardian of the persons of infants or committee of the persons of lunatics.

Appointment of company as trustee, etc.

5. Where a trust company is authorized to execute the office of executor, administrator, trustee, assignee, guardian, or committee then in case the Lieutenant Governor in Council approves of such company being accepted by any court in the province having power to appoint executors, trustees, assignees, or committees, or to grant letters of administration or guardianship as a trust company for the purposes of such court the said court or any judge thereof may with the consent of the company appoint such company to exercise any of the said offices in respect of any estate, or person, under the authority of such court or judge or may grant to such company probate of any will in which such company is named an executor; but no company which has issued or has authority to issue debentures shall be approved as aforesaid.

(2) A trust company so approved of may be appointed to be a sole trustee notwithstanding that but for this Ordinance it would be necessary to appoint more than one trustee and may also be appointed trustee jointly with another person.

(3) Such appointment may be made whether the trustee is required under the provisions of any deed, will or document creating a trust or whether the appointment is under the provisions of any Ordinance respecting trustees and executors and the administration of estates or otherwise.

(4) Notwithstanding any rule of practice or any provision of any Ordinance or Act requiring security it shall not be necessary for the said company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, assignee, guardian, or committee unless otherwise ordered. 1914, c. 2, s. 3.

(5) The Lieutenant Governor in Council may revoke the approval given under this section and no court or judge after notice of such revocation shall appoint any such company to be an administrator, trustee, receiver, assignee, guardian or committee unless such company gives the like security for the due performance of its duty as would be required from a private person.

(6) Any appointments of executors, trustees, assignees or committees, or any grants of letters of administration or guardianship heretofore made to any trust company approved as hereinbefore provided by the Lieutenant Governor in Council or by any court in the province having jurisdiction to make such appointments or grants shall have the same force and effect as though the same had been made after the passing of this Act. 1910 (2nd Session), c. 2, s. 10.

Liability of company acting as trustee

6. The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, assignee, guardian, or committee as aforesaid, shall be the same as if the estate had been held by any private person in the like capacity and its powers shall be the same.

Investigation of affairs of company

7. The Supreme Court if it deems necessary may from time to time appoint a suitable person to investigate the affairs and management of any trust company; and such person shall report thereon to the court and regarding the security afforded to those by or from whom the engagements of the company are held; and the expense of such investigations shall be defrayed by the company; or the court may if it deems necessary examine the officers or directors of the company under oath as to the security aforesaid.

(2) The Lieutenant Governor may also from time to time when he deems it expedient appoint an inspector to examine the affairs of any such company and report to him on the security afforded to those by and for whom its engagements are held as aforesaid; and the expense of the investigation shall be borne by the company.

Deposit with company of money paid into court

8. Every court into which money is paid by parties or is brought by order of judgment may by order direct the same to be deposited with any trust company that may agree to accept the same and the company may pay any lawful rate of interest on such moneys as may be agreed upon and where no special arrangement is made interest shall be allowed by the company at the rate of not less than three per centum annually.

(2) Every trust company may invest any trust moneys in its hands in any securities in which private trustees may by law invest trust moneys and may also invest such moneys in the public stock funds or government securities of any of the provinces of the Dominion or in any securities guaranteed by

the United Kingdom of Great Britain and Ireland, or by the Dominion, or by any of the said provinces, or in the bonds or debentures of any municipal corporation or school district in the North-West Territories or in securities which are a first charge on lands held in fee simple in the Territories:

Provided that such company shall not in any case invest the moneys of any trust in securities prohibited by the trust and shall not invest moneys intrusted to it by any court in a class of securities disapproved of by the court.

Trust companies not to issue debentures

9. No trust company incorporated under *The Companies Ordinance* shall issue debentures.

SCHEDULE.

Powers Which May be Given to Trust Companies.

To take, receive and hold all estates and property, real and personal, which may be granted, committed, transferred, or conveyed to them with their consent upon any trusts or trust whatsoever (not contrary to law) at any time or times, by any person or persons, body or bodies corporate, or by any court in the Territories;

To take and receive on deposit, upon such terms and for such remuneration as may be agreed upon, deeds, wills, policies of insurance, bonds, debentures, or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind, and to guarantee the safe keeping of the same;

To act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons, and other securities for money;

To act as agent for the purpose of issuing or countersigning certificates of stock, bonds, or other obligations of any association, or corporation, municipal or other;

To receive, invest and manage any sinking fund therefor on such terms as may be agreed upon;

To accept and execute the offices of executor, administrator, trustee, receiver, assignee, or of trustee for the benefit of creditors under any Ordinance of the Legislature of the Territories; and of guardian of any minor's estate, or committee of any lunatic's estate; to accept the duty and act generally in the winding up of estates, partnerships, companies and corporations;

To guarantee any investments made by them as agents or otherwise;

To sell, pledge, or mortgage any mortgage or other security or any other real or personal property held by the company from time to time, and to make and execute all requisite conveyances and assurances in respect thereof;

To make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and

contracts necessary to carry out the purposes of the said company, and to promote the objects and business of the said company;

And for all such services, duties and trusts to charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses.

CHAPTER 113.

An Ordinance to Secure Uniform Conditions in Policies of Fire Insurance.

(Chapter 16 of 1903, 1st Session.)

Repealed 1914, c. 20; but see 1915, c. 8, s. 69 and Schedule C thereto.

CHAPTER 114.

An Ordinance to Amend Chapter 30 of the Ordinances of 1901.

(1903, 1st Session, c. 21.)

This Ordinance is incorporated in *The School Assessment Ordinance*, Chapter 105.

CHAPTER 115.

An Ordinance to Protect Horse Breeders in the North-West Territories.

(Chapter 23 of 1903, 1st Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Horse Breeders Ordinance.*" 1899, c. 20, s. 1.

INTERPRETATION.

Interpretation

2. The expression "commissioner" means the Commissioner of Agriculture;

The expression "department" means the Department of Agriculture;

The expression "owner" includes a part owner.

Registration of stallions

3. Every person, firm or company standing or travelling any stallion for profit or gain in the North-West Territories shall cause the name, description and pedigree of such stallion to be enrolled in the department and shall procure a certificate of such enrolments as hereafter provided.

(2) No fee shall be required for such enrolment and certificate for any stallion registered under the provisions of chapter 20 of the Ordinances of 1899 but in all other cases there shall be paid for such enrolment and certificate a fee of $2.

(3) Upon a transfer of the ownership of any stallion enrolled under this section the certificate of enrolment may be transferred to the transferee by the commissioner upon proof to his satisfaction of such transfer and upon payment of the fee of $1. 1899, c. 20, s. 2.

Copies of certificate of registration to be posted up

4. The owner of any stallion shall post up and keep affixed during the whole of the season copies of the certificate of such stallion issued under the next preceding section in a conspicuous place both within and upon the outside of the main door leading into every stable or building where the said stallion stands regularly for public service.

Certificate of pure bred stallion

5. The certificate issued for a stallion whose sire and dam are of pure breeding and which is registered in a stud book approved by the commissioner shall be in form A in the schedule hereto.

Certificate of grade stallion

6. The certificate issued for a stallion whose sire or dam is not of pure breeding shall be in form B in the schedule hereto.

Certificate of cross bred stallion

7. The certificate issued for a stallion whose sire and dam are pure bred but not of the same breed shall be in form C in the schedule hereto.

Advertisements of stallions

8. Every bill, poster or advertisement issued by the owner of any stallion enrolled under this Ordinance or used by him for advertising such stallion shall contain a copy of its certificate of enrolment. 1899, c. 20, s. 3.

Evidence of advertisement

9. The production of any bill, poster or other printed or written matter advertising any stallion for public service shall be *prima facie* evidence that such bill, poster or other advertising material was used to advertise the stallion named and described therein by or with the consent of the owner or owners of the said stallion.

REGISTRATION OF LIEN FOR SERVICE.

Filing evidence of claim for service

10. The owner of any stallion holding a certificate of enrolment for such stallion under section 5 of this Ordinance or his agent may file in the office of the registration clerk of the registration district for mortgages and other transfers of personal property in which the owner or person in charge of any mare upon which such stallion performs service resides, within twelve months after such service is performed, a statutory declaration setting forth—

1. The amount of service fee;
2. That the same is unpaid;
3. The fact of such service;
4. A reasonable description of such mare; and
5. The name and residence of the owner of such mare.

(2) For filing such statutory declaration the registration clerk shall be entitled to a fee of ten cents. 1899, c. 20, s. 4.

Effect of filing

11. The owner of such stallion upon filing such statutory declaration and complying with the provisions of this Ordinance shall have a lien for the amount of said service fee and costs as hereinafter provided upon the colt or filly the offspring of any such stallion by reason of the service in respect of which such statutory declaration is filed which lien shall take and have priority over any and all writs of execution, chattel mortgages, bills of sale, claims and encumbrances whatsoever. 1899, c. 20, s. 5.

ENFORCEMENT OF LIEN.

Sale of colt

12. If payment of the service fee is not made before the first day of January in the year following the year in which the colt or filly is born, the owner of said stallion or his duly authorized agent may at any time before the first day of May following take possession of the colt or filly upon which he has such lien as aforesaid wherever the same may be found and may proceed to sell the same by public auction after giving the person in whose possession the said colt or filly was when taken ten days' notice in writing of such intention to sell which notice may be effectually given to such person by delivering

the same to him personally or by posting it upon the door of such person's last known place of residence in the North-West Territories. 1899, c. 20, s. 6.

Application of proceeds

13. The proceeds of sale shall be applied first in payment of the reasonable expenses of the taking of possession, giving of notice, and conduct of sale, not in any case to exceed $10 in all and next in payment of said service fee, and the balance shall be paid forthwith by the owner of the stallion to the person from whose possession such colt or filly was taken. 1899, c. 20, s. 7.

Penalties

14. Violation of any of the provisions of this Ordinance shall be an offence for which the offender shall be liable on summary conviction to a penalty not exceeding $25.

Repeal

15. Chapter 20 of the Ordinances of 1899 is hereby repealed.

Commencement

16. This Ordinance shall come into force on the first day of January, 1904.

SCHEDULE.

FORM A.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

Certificate of Pure Bred Stallion No.....

The pedigree of the stallion.....(*name*).....
described as follows:
(*colour*).....
foaled in the year....., has been examined in the department and I hereby certify that the said stallion is of pure breeding and is registered in a stud book recognized by the department.

.....
Commissioner of Agriculture.

FORM B.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

Certificate of Grade Stallion No.....

The pedigree of the stallion.....(*name*).....
described as follows:
(*colour*).....
foaled in the year....., has been examined in the department and it is found that the said stallion is not of pure breeding and is therefore not eligible for registration in any stud book recognized by the department.

.....
Commissioner of Agriculture.

FORM C.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

Certificate of Cross Bred Stallion No.....

The pedigree of the stallion.....
described as follows:
(*colour*).....
foaled in the year....., has been examined in the department and it is found that his sire is registered in the.....
and his dam in the.....

Such being the case, the said stallion is not eligible for registration in any stud book recognized by the department.

.....
Commissioner of Agriculture.

CHAPTER 116.

An Ordinance to Provide for the Payment of Succession Duties in Certain Cases.

The Succession Duty Ordinance, being chapter 5 of the Ordinances of 1903 (2nd Session), is repealed, except as to the property of any person in respect of whose estate, application for letters probate, or letters of administration, or for the resealing of letters probate, or letters of administration, shall have been made before the date of the passing of *The Succession Duties Act*, chapter 5, 1914 (assented to October 22, 1914).

CHAPTER 117.

An Ordinance respecting the Action for Seduction.

(Chapter 8 of 1903, 2nd Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Action, when maintainable by father or mother

1. The father or, in case of his death, the mother (whether she remains a widow or remarries) of any unmarried female who has been seduced and for whose seduction the father or mother could maintain an action in case such unmarried female was at the time dwelling under his or her protection may maintain an action for the seduction, notwithstanding such unmarried female was at the time of her seduction serving or residing with another person upon hire or otherwise.

Proof of service dispensed with

2. Upon the trial of an action for seduction brought by the father or mother it shall not be necessary to prove any act of service performed by the party seduced but the same shall in all cases be presumed and no evidence shall be received to the contrary; but in case the father or mother of the female seduced had before the seduction abandoned her and refused to provide for and retain her as an inmate then any other person who might at common law have maintained an action for the seduction may maintain such action.

When action maintainable by master, etc.

Where father or mother not resident in the Territories

3. Any person other than the father or mother who by reason of the relation of master or otherwise would have been entitled at common law to maintain an action for the seduction of an unmarried female may still maintain such action if the father or mother be not resident in the Territories at the time of the birth of the child which is born in consequence of the seduction or being resident therein does not bring an action for the seduction within six months from the birth of the child.

Action may be brought by party seduced in her own name

4. Notwithstanding anything in this Ordinance an action for seduction may be maintained by any unmarried female who has been seduced, in her own name, in the same manner as an action for any other tort and in any such action she shall be entitled to such damages as may be awarded.

CHAPTER 118.

An Ordinance respecting the Support of Illegitimate Children.

(Chapter 9 of 1903, 2nd Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

The father of an illegitimate child liable for necessaries

1. Any person who furnishes food, clothing, lodging or other necessaries to any child born out of lawful wedlock may maintain an action for the value thereof against the father of the child if the child was a minor at the time the necessaries were furnished and was not then residing with his or her reputed father and maintained by him as a member of his family.

When other testimony than that of the mother requisite

2. Where the person suing for the value of the necessaries is the mother of the child or a person to whom the mother has become accountable for the necessaries the fact of the defendant being the father shall be proved by other testimony than that of the mother.

No action maintainable unless the mother makes affidavit before the birth of the child or within six months after

3. No action shall be sustained under the preceding two sections unless it is shown upon the trial thereof that while the mother of the child was pregnant or within six months after the birth of her child she did voluntarily make an affidavit in writing before some one of His Majesty's justices of the peace for the Territories declaring that the person afterwards charged in the action is really the father of the child, nor unless she deposited the affidavit within the time aforesaid in the office of the clerk of the Supreme Court for the judicial district in which she resides or in the office of the deputy clerk if she resides in a deputy clerk's district.

Such affidavit not to be evidence

4. The affidavit shall not be evidence of the fact of the defendant being the father of the child.

Other remedies not to be affected

5. This Ordinance shall not take away or abridge any right of action or remedy which without this Ordinance might have been maintained against the father of an illegitimate child.

CHAPTER 119.

An Ordinance respecting Trustees and Executors and the Administration of Estates.

(Chapter 11 of 1903, 2nd Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

SHORT TITLE.

Short title

1. This Ordinance may be cited as "*The Trustee Ordinance.*"

INTERPRETATION.

Interpretation

2. Unless the context otherwise requires the expression "trustee" shall be deemed to include an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee and shall also include several joint trustees.

INVESTMENTS.

Trustees may invest trust moneys in certain securities

3. Trustees having trust money in their hands which it is their duty or which it is in their discretion to invest at interest shall be at liberty at their discretion to invest the same in any stock, debentures or securities of the Government of the Dominion of Canada or of any of the provinces of Canada or any debentures or securities the payment of which is guaranteed by the Government of the Dominion of Canada or of any province of Canada or in the debentures of any municipality or school district in the Territories; or in securities which are a first charge on land held in fee simple provided that such investments are in other respects reasonable and proper and such trustees shall also be at liberty at their discretion to call in any trust funds invested in any other securities than as aforesaid and to invest the same in any such stock, debentures, or securities aforesaid, and also from time to time at their discretion to vary any such investments as aforesaid, for others of the same nature; and any such moneys already invested in any such stock, debentures or securities as aforesaid shall be held and taken to have been lawfully and properly invested.

This section to apply to all trustees, etc.

(2) This section shall apply and extend to both present and future trustees.

Additional powers given

4. The powers hereby conferred are in addition to the powers conferred by the instrument, if any, creating the trust:

Proviso

Provided that nothing herein contained shall authorize any trustee to do anything which he is in express terms forbidden to do or to omit to do anything which he is in express terms directed to do by the instrument creating the trust.

When trustee not chargeable for lending on insufficient security

5. No trustee lending money upon the security of any property shall be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made provided that it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere and that the amount of the loan does not exceed two-thirds of the value of the property as stated in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) This section shall apply to a loan upon any property on which the trustee can lawfully lend and to transfers of existing securities as well as to new securities and to investments made as well before as after the passing of this Ordinance.

Trustees lending more than authorized amount

6. Where a trustee has improperly advanced trust money on a mortgage security which would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon the security shall be deemed an authorized investment for such less sum and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(2) This section shall apply to investments made as well before as after the passing of this Ordinance.

Liability in case of change of character of investment

7. No trustee shall be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorized by the instrument of trust or by the general law and this provision shall apply to cases arising before or after the passing of this Ordinance.

RIGHTS AND LIABILITIES OF TRUSTEES.

Every trust instrument to be deemed to contain clause for the indemnity and reimbursement of the trustees

8. Every deed, will or other document creating a trust either expressly or by implication shall without prejudice to the clauses actually contained therein be deemed to contain a clause in the words or to the effect following that is to say: "That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive notwithstanding their respectively signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of each other nor for any banker, broker or other person with whom any trust moneys or securities may be deposited; nor for the insufficiency or deficiency of any stocks, funds or securities nor for any other loss unless the same shall happen through their own wilful neglect or default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument."

Appointment of new trustees

9. Where a trustee, either original or substituted and whether appointed by the court or otherwise, dies, or desires to be discharged from, or refuses or becomes unfit or incapable to act in the trusts or powers in him reposed before the same shall have been fully discharged and performed it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust, if any, or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person or persons to be a trustee or trustees in place of the trustees or trustee dying, or desiring to be discharged, or refusing, or becoming unfit, or incapable to act as aforesaid; and so often as any new trustee or trustees is or are so appointed as aforesaid all the trust property, if any, which for the time being is vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustees or trustee, shall with all convenient speed be conveyed, assigned and transferred so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees, or a surviving or continuing trustee as the case may require; and every new trustee to be appointed as aforesaid, as well before as after such conveyance, assignment or transfer as aforesaid, and also every trustee appointed by the court either before or after the passing of this Ordinance, shall have the same powers, authorities and discretions, and shall in all respects act as if he had originally been nominated a trustee by the deed, will, or other instrument creating the trust.

(2) On the appointment of a new trustee for the whole or any part of trust property—

(*a*) The number of trustees may be increased; and

(*b*) A separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for any such part of the trust property; and

(*c*) It shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this section from his trust unless there will be at least two trustees to perform the trust; and

(*d*) Any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done.

(3) Every new trustee so appointed, as well before as after all the trust property becomes by law, or by assurance, or otherwise, vested in him, shall have the same powers, authorities, and discretions and may in all respects act as if he has been originally appointed a trustee by the instrument, if any, creating the trust.

(4) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of this section.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(6) This section applies to trusts created either before or after the passing of this Ordinance.

Retirement of trustees

10. Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, by deed consent to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall, by the deed, be discharged therefrom under this Ordinance without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(4) This section applies to trusts created either before or after the passing of this Ordinance.

Vesting of trust property in new or continuing trustees without conveyance

11. Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subject, shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment but subject to the provisions of any Act or Ordinance respecting the registration of titles to lands, operate to vest in those persons as joint tenants and for the purposes of the trust, that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Ordinance contains such a declaration as is in this section mentioned by the retiring and continuing trustees and by the other person, if any, empowered to appoint trustees, that declaration shall without any conveyance or assignment but subject as aforesaid operate to vest in the

continuing trustees alone as joint tenants and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity, or property only transferable in books kept by a company or other body or in manner prescribed by or under an Ordinance of the Legislative Assembly of the Territories.

(4) For the purposes of registration of an instrument the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Ordinance.

PURCHASE AND SALE.

Power of trustee for sale to sell by auction, etc.

12. Where a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to any such conditions respecting title or evidence of title or other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to resell without being answerable for any loss.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained.

Power to sell subject to depreciatory conditions

13. No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the ground aforesaid.

Fee simple estates of bare trustees to vest in their personal representatives

14. Upon the death of a bare trustee of any corporeal or incorporeal hereditament of which such trustee was seized in fee simple such hereditaments shall vest in the legal personal representative, from time to time of such trustee.

Conveyances by married woman as bare trustee

15. Where any freehold hereditament is vested in a married woman as bare trustee she may convey or surrender the same as if she were *feme sole* and without her husband joining in the conveyance.

Receipts of trustees to be effectual discharges

16. The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such

payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security.

VARIOUS POWERS AND LIABILITIES.

Appointment of agents by trustees for certain purposes

17. It shall be lawful for a trustee to appoint an advocate to be his agent to receive and give a discharge for any money or any valuable consideration of property receivable by such trustee under the trust; and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making such appointment: Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not been enacted in case of permitting such money, valuable consideration, or property to remain in the hands or under the control of the advocate for a period longer than is reasonably necessary to enable the solicitor to pay or transfer the same to the trustee.

(2) It shall be lawful for a trustee to appoint a chartered bank or advocate to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment: Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not been enacted, in case he permits such money to remain in the hands or under the control of the bank or advocate for a period longer than is reasonably necessary to enable him to pay the same to the trustee.

Powers of trustees to insure trust property

18. It shall be lawful for but not obligatory upon a trustee to insure against loss or damage by fire any building or other insurable property to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property and to pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person entitled wholly or partly to such income.

(2) This section shall not apply to any building or property which a trustee is bound forthwith to convey absolutely to and *cestui que trust* upon being requested to do so.

Trustee committing breach of trust at instigation of beneficiary

19. Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary the court may, if it thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

Power of trustee to give receipts

20. The receipt in writing of any trustee for any money securities or other personal property or effects payable, transferable or deliverable to him under any trust or power shall be a sufficient discharge for the same and shall effectually exonerate the person paying, transferring, or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

(2) This section applies to trusts created either before or after the passing of this Ordinance.

Power for executors and trustees to compound, etc.

21. A trustee, or two or more trustees, acting together, or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise, compound, abandon, submit to arbitration, or otherwise settle any debt, account, claim, or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of those purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(3) This section applies to executorships, administratorships and trusts constituted or created either before or after the passing of this Ordinance.

Powers of two or more trustees

22. Where a power or trust is given to or vested in two or more trustees jointly then unless the contrary is expressed in the instrument, if any, creating the power or trust the same may be exercised or performed by the survivor or survivors of them for the time being.

Exoneration of trustees in respect of certain powers of attorney

23. A trustee acting or paying money in good faith under or in pursuance of any power of attorney shall not be liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the trustee at the time of his so acting or paying.

(2) Nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

MAINTENANCE OF INFANTS.

In case property held in trust for infant

24. In all cases where any property is held by trustees in trust for infant, either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event

previously to his attaining that age, it shall be lawful for such trustees at their sole discretion to pay to the guardians, if any, of such infant, or otherwise to apply for or towards the maintenance or education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property whether there be any found applicable to the same purpose or any other person bound by law to provide for such maintenance or education or not, and such trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in proper securities for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen:

trustees may apply income for maintenance of infant

Provided always that it shall be lawful for such trustees at any time if it shall appear to them expedient to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

25. In all cases where any property either real or personal is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age and where the income arising from such property is insufficient for the maintenance and education of such infant it shall be lawful for such trustees by leave of a judge of the Supreme Court to be obtained in a summary manner to sell and dispose of any portion of such real or personal property and to pay to the guardians, if any, of such infant or otherwise to apply for or towards the maintenance or education of such infant the whole or any part of the money arising from such sale as aforesaid; and in the event of the whole of the money arising from any sale of the real or personal property as aforesaid not being immediately required for the maintenance and education of such infant then the said trustees shall invest the surplus moneys and the resulting income therefrom from time to time in proper securities and shall apply such moneys and the proceeds thereof from time to time for the education and maintenance of the said infant and shall hold all the residue of the moneys and interest thereon not required for the education and maintenance of such infant as aforesaid for the benefit of the person who shall ultimately become entitled to the property from which such moneys and interests have arisen.

Property held in trust for infants may be sold by leave of a judge and proceeds thereof applied for maintenance and education of such infants

Application and investment of moneys so realized

26. Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally or a particular class or classes of creditors where the creditors are not designated by name therein, or an executor or an administrator has given such or the like notices as in the opinion of the court in which such trustee, assignee, executor or administrator is sought to be charged, would have been given by the Supreme Court in an action for the execution of the trusts of such deed or assignment, or an administration suit as the case may be, for creditors and others, to send in to such trustee, assignee, executor or administrator their claims against the person for the benefit of the creditors of whom such deed or assignment is made, or the estate of the testator or intestate, as the case

Distribution of assets under trust

Deeds for benefit of creditors or of the assets of a testator or intestate after notice given by trustee, assignee, executor or administrator

may be, the trustee, assignee, executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims be at liberty to distribute the proceeds of the trust estate, or the assets of the testator or intestate, as the case may be, or any part thereof amongst the parties entitled thereto, having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate, or assets, as the case may be, or any part thereof so distributed to any person of whose claim the trustee, assignee, executor or administrator had not notice at the time of the distribution thereof or a part thereof, as the case may be; but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets, as the case may be, or any part thereof into the hands of the person or persons who may have received the same respectively.

PAYMENT INTO COURT BY TRUSTEES.

Payment into court by trustees

27. Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, or to the estate of a deceased person, may pay the same into the Supreme Court; and the same shall subject to the rules of court be dealt with according to the orders of the Supreme Court.

(2) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into court.

(3) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying the same into court but the concurrence of the other or others cannot be obtained the Supreme Court may order the payment into court to be made by the majority without the concurrence of the other or others, and where any such moneys or securities are deposited with any banker, broker or other depositary the court may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into court and every transfer payment and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid, or delivered.

Relief of trustees committing technical breach of trust

28. If in any proceeding affecting trustees or trust property it appears to the court that a trustee whether appointed by the court or by an instrument in writing or otherwise, or that any person who in law may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach whether the transaction alleged or found to be a breach of trust occurred before or after the passing of this Ordinance but has acted honestly and reasonably and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the court in the matter in which he committed such breach then the court may relieve the trustee either wholly or partly from personal liability for the same.

RIGHTS AND LIABILITIES OF EXECUTORS AND ADMINISTRATORS.

Actions by executors and administrators for torts

29. The executors or administrators of any deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased except in cases of libel and slander in the same manner and with the same rights and remedies as the deceased would if living have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease.

Actions against executors and administrators for torts

30. In case any deceased person committed a wrong to another in respect of his person or of his real or personal property except in cases of libel and slander the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong; but such action shall be brought within one year after the decease.

Damages in actions under two preceding sections

31. In estimating the damages in any action under either of the next preceding two sections the benefit, gain, profit or advantage which in consequence of or resulting from the wrong committed may have accrued to the estate of the person who committed the wrong shall be taken into consideration and shall form part or may constitute the whole of the damages to be recovered and whether or not any property or the proceeds of value of property belonging to the person bringing the action or to his estate has or have been appropriated by or added to the estate or moneys of the person who committed the wrong.

Executors or administrators of a lessor may distrain for arrears

32. The executors or administrators of any lessor or landlord may distrain upon the lands demised for any term or at will for the arrears of rent due to such lessor or landlord in his lifetime in like manner as such lessor or landlord might have done if living.

Such arrears of rent may be distrained for within six months after determination of the lease

33. Such arrears may be distrained for at any time within six months after the determination of the term or lease and during the continuance of the possession of the tenant from whom the arrears became due; and the law relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

Representatives of deceased joint contractors liable although the other joint contractors be living

34. In case any one or more joint contractors, obligors or partners die the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several and this, notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies shall not be liable to a greater extent than they would have been if this section had not been passed.

Devisee in trust may raise money by sale or mortgage to satisfy charges, notwithstanding want of express power in the will

35. Where by any will coming into operation before or after the passing of this Ordinance a testator charges his real estate or any specific portion thereof with the payment of his debts or with the payment of any legacy or other specific sum of money and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein and does not make any express provisions for the raising of such debt, legacy or sum of money out of such estate the said trustee or trustees notwithstanding any trusts actually declared by the testator may raise such debt, legacy or money as aforesaid by a sale and absolute disposition by public auction or private contract of the said real estate or any part thereof or by a mortgage of the same or partly in one mode and partly in the other and a mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same think proper.

Power given by last section extended to survivors, devisees, etc.

36. The powers conferred by the next preceding section shall extend to all and every the person or persons in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person or persons appointed under any power in the will or by the Supreme Court to succeed to the trusts created by the will as aforesaid.

Purchasers, etc., not bound to inquire as to exercise of powers

37. Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by the preceding two sections of this Ordinance or any of them have been duly and correctly exercised by the person or persons acting in virtue thereof.

Directions to sell, etc., may be exercised by executor when no other person is appointed to exercise same

38. Where there is in any will or codicil of any deceased person whether such will has been made or such person has died before or after the passing of this Ordinance any direction whether express or implied to sell, dispose of, appoint, mortgage, encumber or lease any real estate and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executor or executors, if any, named in such will or codicil shall and may execute and carry into effect every such direction to sell, dispose of, appoint, encumber or lease such real estate, and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the executor or executors of the testator were appointed by the testator to execute and carry the same into effect.

Administrator with will annexed may exercise power of sale given to the executor

39. Where there is in any will or codicil thereto of any deceased person whether such will has been made, or such person has died before or after the passing of this Ordinance any power to any executor or executors in such will to sell, dispose of, appoint, mortgage, encumber, or lease any real estate, or any estate or interest therein, whether such power is express, or arises by implication, and where from any cause letters of administration with such will annexed have been by the Supreme Court committed to any person and such person has given the required security such person shall and may exercise every such power and sell, dispose of, appoint, mortgage, encumber, or lease such real estate and any estate or interest therein in as

full, large and ample a manner and with the same legal effect for all purposes as the said executor or executors might have done.

Or when no one named in the will to execute powers of sale, etc.

40. Where there is in any will or codicil thereto of any deceased person whether such will has been made or such person has died before or after the passing of this Ordinance any power to sell, dispose of, appoint, mortgage, encumber, or lease any real estate, or any estate or interest therein, whether such power is express, or arises by implication, and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute such power, and letters of administration with such will annexed have been by the Supreme Court committed to any person and such person has given the required security before mentioned such person shall and may exercise every such power and sell, dispose of, appoint, mortgage, encumber, or lease such real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if such last named person had been appointed by the testator to execute such power.

Executors, etc., may convey in pursuance of a contract for sale made by deceased

41. Where any person has entered into a contract in writing for the sale and conveyance of real estate, or any estate or interest therein, and such person has died intestate, or without providing by will for the conveyance of such real estate, or estate or interest therein, to the person entitled or to become entitled to such conveyance under such contract then, if the deceased would be liable to execute a conveyance were he alive, the executor, administrator, or administrator with the will annexed, as the case may be, of such deceased person, shall make and give to the person entitled to the same a good and sufficient conveyance or conveyances of such estates and of such nature as the said deceased if living would be liable to give and such conveyances shall be as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same but shall not have any further validity.

Duties and liabilities of an executor and administrator acting under the powers of this Ordinance

42. Every executor, administrator, and administrator with the will annexed shall as respects the additional powers vested in him by this Ordinance and any money or assets by him received in consequence of the exercise of such powers be subject to all the liabilities and compellable to discharge all the duties of whatsoever kind which as respects the acts to be done by him under such powers would have been imposed upon an executor or other person appointed by the testator to execute the same or in case of their being no such executor or person would have been imposed by law or by the Supreme Court or a judge thereof.

Powers given by this Ordinance to two or more to survive

43. Where there are several executors, administrators, or administrators with the will annexed and one or more of them die the powers hereby created shall vest in the survivor or survivors.

In case of deficiency of assets debts to rank *pari passu*

44. On the administration of the estate of a deceased person, in case of the deficiency of assets debts due to the Crown and to the executor or administrator of the deceased person, and debts to others including therein respectively debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as by statute are payable in like order of administration as simple contract debts, shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate.

Not to affect lien

If claim is rejected and notice given an action must be brought within a certain period

45. In case the executor or administrator gives notice in writing referring to this section of his intention to avail himself thereof to any creditor or other person of whose claims against the estate he has notice, or to the advocate or agent of such creditor or other person, that he the executor or administrator rejects or disputes the claim it shall be the duty of the claimant to commence his action in respect of the claim within six months after the notice is given in case the debt or some part thereof is due at the time of the notice or within three months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice, and in default the claim shall be forever barred.

(2) Unless such creditor or other person within ten days after the receipt of such notice notifies the executor or administrator that he withdraws his claim such executor or administrator may if he thinks fit apply to a judge of the Supreme Court for an originating summons calling upon such creditor or other person to establish his claim and upon the return of such summons the judge may allow or bar the claim or make such other order as to him may seem meet with or without costs against either party.

As to liability of executor or administrator in respect of covenants, etc., in leases

46. Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered has satisfied all such liabilities under the said lease or agreement for a lease, as have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease or agreement for the lease, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and among the parties entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not after having assigned the said lease or agreement for a lease and having where necessary set apart such sufficient fund as aforesaid be personally liable in respect of any subsequent claim under the said lease or

agreement for a lease; but nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor in respect of rents, etc., in conveyances on rent, charges, etc.

47. In like manner where an executor or administrator, liable as such to the rent, covenants or agreements contained in any conveyance or rent charge whether any such rent be by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance or agreement for a conveyance as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not after having made or executed such conveyance or assignment and having where necessary set apart such sufficient fund as aforesaid be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance; but nothing herein contained shall prejudice the right of the grantor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

SUMMARY APPLICATION TO COURT FOR ADVICE.

Trustee, etc., may apply for advice in management of trust property

48. Any trustee, guardian, executor, or administrator shall be at liberty without the institution of an action to apply in court or in chambers in the manner prescribed by rules of the court for the opinion, advice or direction of a judge of the Supreme Court on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

(2) The trustee, guardian, executor or administrator acting upon the opinion, advice or direction given by the judge shall be deemed so far as regards his own responsibility to have discharged his duty as such trustee, guardian, executor, or administrator in the subject matter of the said application; but this provision shall not extend to indemnify a trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid if the trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction.

ALLOWANCE TO TRUSTEES, ETC.

Allowance to trustees

49. Any trustee under a deed, settlement or will, any executor or administrator, any guardian appointed by any court, and any testamentary guardian or other trustee howsoever, the trust is created shall be entitled to such fair and reasonable allowance for his care, pains and trouble and his time expended in and about the trust estate as may be allowed by the Supreme Court or a judge thereof or by any clerk thereof to whom the matter may be referred.

Allowance to be made although the estate not before the court

50. A judge of the Supreme Court may on application to him for the purpose settle the amount of such compensation, although the trust estate is not before the court in any action.

Act to apply to existing as well as future trusts

51. Compensation may be allowed in the case of any trust heretofore created as well as in any to be hereafter created.

Judge may order an allowance to be made to executor or administrator out of the estate for his trouble

52. The judge may allow to the executor or trustee or administrator acting under a will or letters of administration a fair and reasonable allowance for his care, pains and trouble and his time expended in or about the executorship, trusteeship, or administration of the estate and effects vested in him under the will or letters of administration, and in administering, disposing of and arranging and settling the same and generally in arranging and settling the affairs of the estate and may make an order or orders from time to time therefor and the same shall be allowed to an executor, trustee or administrator in passing his accounts.

Where allowance fixed by the instrument

53. Nothing in the next preceding four sections shall apply to any case in which the allowance is fixed by the instrument creating the trust.

Advocate entitled to profit costs

54. In addition to any allowance a trustee who is an advocate shall also be entitled to profit costs for any professional work done in connection with the trust.

LIMITATION OF ACTIONS.

Application of statutes of limitations to certain actions against trustees

55. In any action or other proceeding against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property, or the proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following provisions shall apply:

(*a*) The law relating to the limitation of actions shall apply in like manner and to the like extent as it would in such action or other proceeding if the trustee or person claiming through him had not been a trustee or a person claiming through a trustee.

(*b*) If the action or other proceeding is brought to recover money or other property and is one to which no law relating to the limitation of actions applies the trustee or person claiming through him shall be entitled to the benefit of and be at liberty to plead the lapse of time

as a bar to such action or other proceeding in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use whether with or without restraint upon anticipation but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(2) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or any other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action or other proceeding and this section had been pleaded.

(3) This section shall apply only to actions or other proceedings commenced after the passing of this Ordinance and shall not deprive any executor or administrator of any right or defence to which he is entitled under any law relating to limitation of actions.

JUDICIAL TRUSTEES.

Power of the court on application to appoint judicial trustee

56. Where application is made to the Supreme Court or a judge thereof by or on behalf of the person creating or intending to create a trust or by or on behalf of a trustee or beneficiary the court or judge may in its or his discretion appoint a person (in this Ordinance called a judicial trustee) to be a trustee of said trust either jointly with any other person or as sole trustee and if sufficient cause is shown in place of all or any existing trustees.

(2) The administration of the property of a deceased person whether a testator or intestate shall be a trust and the executor or administrator a trustee within the meaning of this section.

(3) Any fit and proper person nominated for the purpose in the application may be appointed a judicial trustee and in the absence of such nomination or if the court or judge is not satisfied of the fitness of a person so nominated an official of the court or other competent person may be appointed and in any case a judicial trustee shall be subject to the control and supervision of the court as an officer thereof.

(4) The court or judge may either on request or without request give to a judicial trustee any general or special directions in regard to the trust or the administration thereof.

(5) There may be paid to a judicial trustee out of the trust property such remuneration not exceeding the prescribed limits as the court or judge may assign in each case and the remuneration so assigned to any judicial trustee shall save as the court or judge may for special reasons otherwise order cover all his work and personal outlay.

(6) Once in every year the accounts of every trust of which a judicial trustee has been appointed shall be audited and a report thereon made to the court by the prescribed persons and in any case where the court or judge shall so direct an inquiry into the administration by a judicial trustee of any trust, or into any dealing or transaction of a judicial trustee, shall be made in the prescribed manner.

CHAPTER 120.

An Ordinance respecting Mutual Fire Insurance.

(Chapter 21 of 1903, 2nd Session.)

THE Lieutenant Governor, by and with the advice and consent of the Legislative Assembly of the Territories, enacts as follows:

Short title

1. This Ordinance may be cited as "*The Mutal Fire Insurance Ordinance.*"

INTERPRETATION.

Interpretation

2. Where the words following occur in this Ordinance they shall be construed in the manner hereinafter mentioned unless such construction be inconsistent with the context or subject matter, viz.:

"Registrar" shall mean the Registrar of Joint Stock Companies as defined by *The Companies Ordinance*;

"Mutual insurance" shall mean insurance against loss by fire given in consideration of a premium note or undertaking as provided by this Ordinance with or without a cash payment thereon;

"Mutual fire insurance company" or "mutual company" shall mean a company organized in terms of this Ordinance and impowered only to transact mutual insurance business;

"Member" shall mean a holder of a substituting mutual insurance policy issued by a mutual company;

"Premium note" shall mean an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer the aggregate of such sums not to exceed an amount specified in the instrument.

INCORPORATION.

Certificate of agreement to form company

3. Any thirty or more persons each having an insurable interest in property real or personal exposed to damage by fire who may desire to form a mutual fire insurance company under this Ordinance may make and sign a certificate in writing in which shall be stated—

(*a*) That the persons signing have agreed to form a mutual fire insurance company under this Ordinance;

(*b*) The name of the company which shall contain the words "mutual fire" and shall be subject to approval by the registrar;

(*c*) The name of the city, town or other place in which the principal office of the company is to be located;

(*d*) That each person signing will become a member of the company by insuring with the company property in which he has an insurable interest according to the

mutual insurance plan and subject to the rates, tariffs, and entrance fees to be determined by the provisional directors of the company;

(*e*) The number and names of the provisional directors of the company who shall not be less than seven nor more than fifteen—who shall manage all the affairs of the company until the first general meeting of the company;

(*f*) That the members are not individually liable for the debts of the company beyond the amounts due under the premium notes given by each to the company.

(2) Such certificate shall be in duplicate and shall be signed in the presence of at least one witness and shall be accompanied by an affidavit by the witness proving the signatures made before some person authorized to take affidavits for use in the Supreme Court of the North-West Territories.

(3) The total amount of insurance proposed to be taken under such certificate shall be not less than thirty thousand dollars.

Incorporation

4. One duplicate of the said certificate shall be filed with the registrar accompanied with a fee of ten dollars and thereupon the subscribers thereto and other persons thereafter becoming members shall be a body corporate by and under the name adopted and approved by the registrar and have a common seal.

First general meeting

5. The registrar shall thereupon fix the date and place of the first general meeting of the company and cause a notice to be published in the next and one following issue of the official gazette in the form following, viz.:

MUTUAL FIRE INSURANCE ORDINANCE.

Certificate filed for incorporation of the.....
Mutual Fire Insurance Company of this date.
Head office in....., North-West Territories.
The following are the provisional directors of the company, viz.:
(*Insert names and addresses.*)
The liability of the members is limited.
The first general meeting of the company will be held in on the.....day of....., 190...., at the hour of.....o'clock in.....

.....
Registrar.

Certified copy of certificate of incorporation as evidence

6. A copy of any certificate of incorporation filed in pursuance of this Ordinance certified by the registrar or a copy of the official gazette containing the registrar's notice of such certificate or a certificate of the registrar of any facts respecting any mutual company shall be *prima facie* evidence of the facts therein stated.

Powers of company

7. A mutual company so incorporated may sue or be sued in any court under the corporate name; it may purchase, lease, hold, sell, convey or mortgage any real or personal property

required for the business of the company or for the investment of any reserve fund or other moneys belonging to the company; it may also invest funds belonging to the company or mortgage on real estate; or in the purchase of Dominion, provincial or municipal bonds or on such other securities or investments as the directors may select; and it may appoint such officers or agents as the business of the company shall require and define their powers and duties and fix their remuneration and the amount of the security to be required of them; and it may make by-laws not inconsistent with this Ordinance for the management of its business, the regulation of the tariff of rates, the levying of assessments and the terms and conditions of its insurance policies.

Forfeiture of the corporate powers

8. The corporate powers of the company shall be forfeited and cease except for the purpose of winding up provided—

1. That there are not before the lapse of one year from the date of filing the certificate of incorporation mutual insurance policies of the company in force to a total amount of two hundred thousand dollars; or

2. That at any time thereafter the total amount of such insurance policies shall have diminished and become less than two hundred thousand dollars.

Directors may exercise powers

9. The corporate powers of the company may be exercised by the provisional board of directors prior to the date of the first meeting of the company and thereafter by the successive boards of directors appointed by the members of the company.

Provisional directors to appoint officers

10. Within one month after incorporation of the company, the provisional directors shall meet and appoint a president and vice-president from their own number and shall also appoint a secretary and treasurer and such other officers as may be required to hold office till after the first general meeting of the company and shall also within such period prepare a tariff of rates for premium notes and for entrance fees and fixed annual payments to be paid or undertaken by members in exchange for the insurance policies of the company and they shall adopt such other measures as will conduce to the establishment and furtherance of the company business and shall also prepare such by-laws as they deem necessary to regulate the business of the company or for any other purpose to be submitted to the first general meeting of the company.

THE DIRECTORS, THEIR ELECTION AND POWERS.

Board of directors

11. The affairs of the company shall be managed by a board of directors of not less than seven or more than fifteen members the majority of whom shall be British subjects and all of whom shall be members of the company and holders of insurance therein for at least one thousand dollars each.

First directors

12. At the first meeting of the company a board of directors shall be elected from amongst the subscribers such board to consist of not less than seven or more than fifteen members and no subscriber shall be elected as a director unless he is a subscriber for insurance in the company to at least one thousand dollars.

13. The directors so elected shall hold office and enjoy all the powers exercised by the directors elected as hereinafter provided until replaced or re-elected at the first annual meeting of the company. Term of office

14. In case an election of directors be not made on the day on which it ought to have been made the company shall not for this cause be dissolved but the election may be held on any subsequent day at a meeting to be called by the directors for that purpose or as is otherwise provided for by the by-law of the company and in such case the directors shall continue to hold office until their successors are elected. Failure of election on proper day

GENERAL POWERS OF THE BOARD OF DIRECTORS.

15. The board shall appoint a president and vice-president from their own number and may from time to time appoint a manager, a secretary, a treasurer and such other officers, agents or assistants as to them may seem necessary, prescribe their duties, fix their compensation or allowances, take such security from them as may be required for the faithful performance of their respective duties and remove them and appoint others instead. Officers

16. The said board may also adopt a tariff of rates for insurance and vary the same from time to time and determine the sum to be insured on any property. Tariff of rates

17. The board of directors may from time to time make and prescribe such regulations or by-laws as to them may appear needful and proper respecting the funds and property of the company, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by the company, the holding of the annual meeting, and such other matters as appertain to the business of the company and are not contrary to law and may from time to time alter and amend the said regulations and by-laws except in cases with regard to which such regulations or by-laws may not be repealed or where such repeal would affect the rights of others than the members of the company; in any of which cases such regulations or by-laws shall not be repealed. Regulations and by-laws

18. Every by-law and every repeal, amendment or re-enactment thereof unless in the meantime confirmed at a general meeting of the company duly called for that purpose shall only have force until the next annual meeting of the company and in default of confirmation thereat shall at and from that time cease to have force and in that case no new by-law to the same or like effect shall have any force until confirmed at a general meeting of the company. By-laws to require confirmation

19. The board of directors shall superintend and have the management of the funds and property of the company and of all matters relating thereto not otherwise provided for. Board to manage property of company

Manager may be a director

20. The manager of a mutual company may be elected also a director though he may not be a member and he may be paid an annual salary or he may be remunerated for his services in such other form as the other directors may determine.

Paid officer not eligible for directors

21. No paid officer or person in the employment of the company other than the manager shall be eligible to be elected a director or to take part in the election of the directors though he may be a member of the company.

Directors to hold office for one year

22. The directors of the company shall hold office for a period of one year but shall be eligible for re-election.

Failing a quorum at an annual meeting directors to hold office

23. In the event of a quorum not being present at the annual general meeting of the company the retiring directors shall hold office until their successors are appointed and the board shall convene another general meeting to be held within two months of the date of the annual general meeting to transact the business of the annual general meeting.

Directors to fill vacancy at board

24. In the event of a vacancy arising on the board of directors through the death, insolvency, disqualification or resignation of any of the directors or through the absence from three consecutive meetings of the board of any member without leave of the board which shall *ipso facto* vacate his office the vacancy so arising will be filled by the directors whose appointee shall hold office until the next annual general meeting of the company.

Borrowing powers of board

25. The board may issue debentures, mortgages or promissory notes in favour of any person, firm, company or banking institution for money borrowed and they may borrow money for the purposes of the company for any term not exceeding one year and on such conditions as to interest and mode of repayment as they may think proper; and they may renew such debentures, mortgages or promissory notes from time to time if necessary within the said term of one year; but the total amount so borrowed shall at no time exceed one-half of the total amount remaining due on the premium notes held by the company.

Lending money, etc., to directors forbidden

26. The board shall not loan money to or borrow money from any director of the company or enter into any contract with any director other than the issue of a policy of insurance in the ordinary course of business.

Directors entitled to travelling expenses

27. The directors may be paid a reasonable allowance for travelling expenses to attend meetings of the board or to attend to the business of the company.

Annual general meeting may vote payment to directors

28. At any annual general meeting of the company it shall be lawful to vote to the directors or any of them for the preceding year such sum or sums of money as may be deemed reasonable remuneration for their services.

MEMBERS.

Admission of members

29. The company through its board of directors may admit as a member thereof the owner of any property real or personal by the issuance to such owner of a policy of mutual insurance insuring such owner against loss in respect thereof as hereinafter provided and every person so admitted shall be entitled to like rights and be subject to like liabilities as other members of the company.

Applicant not a member

30. No applicant for insurance shall be deemed a member of the company or be entitled to be elected as a director of the company or be entitled to take part in any of the company's meetings until his policy of insurance has been issued to him.

Member may withdraw with consent of directors

31. Any member of a company may with consent of the directors at any time withdraw therefrom upon such terms as the directors may require in respect of his obligations to the company.

Limitation of liability

32. No member of a company shall be liable in respect of any loss or other claim or demand against the company otherwise than upon and to the extent of the amount unpaid upon his premium note or other undertaking.

MEETINGS OF THE COMPANY.

First general meeting

33. At the first general meeting of the company the members shall appoint as a board of directors not less than seven nor more than fifteen duly qualified members of the company and they shall also pass such by-laws as shall be necessary in the interests of the company and they may appoint auditors or other officers of the company.

Annual general meetings

34. Meetings of the members of a mutual company shall be held in every year within two months after the thirty-first day of December at such time and place as may be prescribed by the directors or by the by-laws of the company. At such meeting in addition to the election of directors there shall be submitted and considered a report of the transactions of the company for the preceding year together with a full statement of its affairs exhibiting in detail its receipts and expenditures and its assets and liabilities, and a report by the auditors of the company thereon.

Special meeting

35. A special meeting of the members shall be convened by the directors at the written request of ten members of the company and the directors may themselves convene such a meeting when occasion requires; notice in either case shall be given in the manner hereinafter provided.

Notices of annual or special general meetings

36. Notice of an annual or special meeting of the company shall be published in one or more daily or weekly newspapers published and circulating in the district embraced in the operations

of the company and be given by circular letter mailed by the secretary to the last known postal address of the members at least fourteen days previous to the date of the meeting.

Votes at meetings

37. Each member of the company shall be entitled at all meetings of the company to the number of the votes proportioned to the amount by him insured according to the following rates that is to say: For any sum under one thousand dollars, one vote; from one thousand dollars to three thousand dollars, two votes.

QUORUM AT MEETINGS.

Quorum at general and board meetings

38. Fifteen members actually present shall form a quorum at all meetings of the company and five directors shall be a quorum at all board meetings.

OFFICERS AND RECORDS.

Treasurer to give security

39. The treasurer, secretary or other officer having charge of the funds of the company shall give security to the satisfaction of the board of directors in an amount to be fixed by a general meeting or by the directors but not to be less than $2,000 for the faithful discharge of his duties.

Full records of all the business done to be kept

40. Every mutual company shall keep full and distinct records of all of its business and transactions including registers of all policies issued and premium notes and cash payments received in respect thereof; books of accounts showing all cash transactions; minute books and letter books and such other records as are usual and necessary to give a full and clear idea of the operations of the company; and these records shall be at all times accessible to any director or auditor of the company or to any one having authority from a general meeting on their behalf to examine and report upon the same.

Auditors of the company to be appointed

41. At the annual general meeting or at a special meeting of which due notice has been given one or more auditors of the company may be appointed who shall make periodical or special examination of the books of the company and report to the directors thereon and who shall receive such remuneration as may be fixed by that or any other meeting of the directors of the company.

RETURNS.

Annual return to the registrar

42. Within one month after the annual general meeting in each year the secretary of the company shall file with the registrar a return verified by the affidavit of the president and the secretary setting forth:

First, the assets of the company, specifying—

(*a*) The value of real estate;

(*b*) The amount of cash on hand and deposited in banks to the credit of the company naming the banks and the amount in each;

(*c*) The amount of cash in company's office and in agent's hands respectively;

(*d*) The amount of any loans or investments and the nature of the security held therefor in detail and what, if any, payments are in arrears thereon;
(*e*) The amount of assessments on premium notes or undertakings on hand;
(*f*) The amount still payable upon premium notes or undertakings on hand;
(*g*) Other amounts due to the company.

Secondly, the liabilities of the company, specifying—
(*a*) The amount of losses due and yet unpaid;
(*b*) The amount of claims for losses resisted;
(*c*) The amount of losses incurred during the year including those claimed but not adjusted;
(*d*) The amount payable for money borrowed and security given and interest payable;
(*e*) The amount of all other existing claims against the company;
(*f*) The amount covered by policies in force in respect of each class of risk.

Thirdly, the income of the company during the preceding year specifying—
(*a*) The amount of cash received on premium notes;
(*b*) The amount of premium notes or undertakings;
(*c*) The amount of interest received;
(*d*) The amount of income from all other sources.

Fourthly, the expenditure during the year specifying—
(*a*) The amount of losses paid during the year stating how much of the same accrued prior and how much subsequent to the date of the last preceding statement and the amount at which such prior accrued losses were estimated in such preceding statement;
(*b*) The amount of expenses paid during the year;
(*c*) The amount of taxes;
(*d*) The amount paid for reinsurance;
(*e*) The amount of all other payments and expenditures under their appropriate heads.

Fifthly, a full copy of all the by-laws adopted by the directors or by a general meeting during the preceding year.

Sixthly, the names of the president, vice-president, secretary-treasurer, directors and auditors of the company appointed for the current year.

Special returns

43. Any company shall further when required make prompt and explicit answer in reply to any inquiries in relation to its transaction which may be required by the Lieutenant Governor in Council; and any company which fails to make and deposit such statement as in the next preceding section required so verified or to reply to such inquiry and its manager and secretary shall be subject respectively on summary conviction for each offence to a fine or penalty of fifty dollars to be recovered on behalf of His Majesty for the use of the North-West Territories.

INSURABLE PROPERTY.

Subjects that may be insured

44. A mutual company may insure the owners of dwelling houses, household furniture, machinery, livestock, farm produce, farm buildings and implements, churches, schools, creameries, cheese factories, warehouses, stores and merchandise, and other buildings and commodities situated in the Territories against loss through damage of such subjects by fire or lightning, whether the same happens by accident or any other means except that of design on the part of the insured or by the invasion of an enemy or by insurrection.

Contracts of insurance not to exceed three years

45. Contracts of insurance by mutual companies shall not exceed the term of three years and unless a mutual company has a reserve fund of at least two thousand dollars and premium notes and undertakings to the amount of at least five thousand dollars no single risks shall be undertaken and held by the company alone for an amount larger than two thousand dollars.

Limit as to amount of risk

The maximum amount of any single risk that can be undertaken and held by the mutual company alone is three thousand dollars.

Validity of mutual insurance contracts

46. All contracts of mutual insurance sealed with the seal of the company, signed by the president or vice-president and countersigned by the secretary shall be binding on the company.

Contract may be renewed by renewal receipt

47. Any contract may be renewed at the discretion of the board of directors by renewal receipts instead of a new policy on the insured furnishing the required cash and premium note but such renewal must be effected before the actual lapse of the period of the principal contract.

Minimum rate to be charged

48. The minimum rate to be charged or taken by any company for insuring first class isolated nonhazardous property shall not be less than thirty-three and one-third cents per one hundred dollars per annum; and the minimum rate of insurance upon other property shall be increased relatively with the increased risk according to the nature of such property.

Reinsurance

49. The directors of a mutual company may make arrangements with any mutual or stock company, registered under *The Alberta Insurance Act* or licensed by the Dominion of Canada for reinsurance of risks undertaken by the company on such terms and conditions as to premiums and rates of losses as may be arranged. 1915, c. 2, s. 21.

Effect of cancellation of policy

50. If the policy be cancelled or avoided by the company the liability of the insured on his premium note or undertaking shall cease from the date of such cancellation or avoidance on account of any loss that may occur to the company thereafter but the party insured shall nevertheless be liable to pay his proportion of the losses and expenses of the company to the time of cancelling or avoiding the policy and on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period shall be entitled to a return of his premium note or

undertaking and such proportion of the premium paid by him as shall not have been absorbed by the losses and expenses of the company up to such period and a condition to this effect shall be endorsed on the policy.

Assignment of property insured

51. If the company become entitled to avoid a policy for alienation or partial alienation of the insured property or of any interest therein upon the return of the policy to the company to be cancelled unless the directors elect to continue the same the assured shall be entitled to receive his premium note or notes upon payment of his proportion of all losses and expenses which had accrued prior to such surrender; but the assignee may have the policy transferred to him and upon application of the directors such assignee on giving proper security to their satisfaction for such proportion of the premium note or undertaking as remains unpaid and with their consent within thirty days next after such alienation may have the policy ratified and confirmed to him; and by such ratification and confirmation the said assignee shall be entitled to all the rights and privileges and be subject to all the liabilities and conditions to which the original party insured was entitled and subject:

Provided, however, that in case where the assignee is a mortgagee the directors may permit the policy to remain in force and to be transferred to him by way of additional security without requiring any premium note or undertaking from such assignee or without his becoming in any manner personally liable for premiums or otherwise; but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue and be in nowise affected.

Company may accept premium note

52. The company may accept premium notes or the undertaking of the insured for insurances and may issue policies thereon said notes or undertakings to be assessed for the loss and expenses of the company in manner hereinafter provided.

PREMIUM NOTES AND ASSESSMENTS.

Part payment in premium notes

53. The director may demand a part of the amount of premium note or undertaking at the time that application for insurance is made; and such first payment may be in cash or by promissory note and may be credited upon said premium note or undertaking or against future assessments.

Part payment in cash

54. The directors may collect a portion of the premium in cash and take a premium note for the remainder thereof; and in case the amount so collected is more than sufficient to pay all losses and expenses during the continuance of the policy then any such surplus shall become part of the reserve fund.

Assessments on premium notes

55. The directors may make assessments upon premium notes before losses have happened or expenses have been incurred and any surplus from such assessment shall become part of the reserve fund.

Manner of assessment

56. All premium notes or undertakings belonging to the company shall be assessed under the direction of the board of

directors at such intervals from their respective dates and for such sums as they may think necessary to meet the losses and other expenditures of said company during the currency of the policies for which said notes or undertakings were given and in respect for which they are liable for assessment; and every member of the company or person who has given a premium note or undertaking shall pay the sums from time to time payable by him to the company during the continuance of the policy in accordance with such assessment; and any such assessment shall become payable in thirty days after notice of such assessment shall be mailed to such member or person who has given the premium note or undertaking directed to his post office address as given in his original application or in writing to the secretary of the company.

Voidance of policy on default in payment of assessments

57. If the assessment on the premium note or undertaking upon any policy be not paid within thirty days after the day on which the said assessment shall have become due the policy of insurance for which said assessment shall have been made shall be null and void as respects all claim for losses occurring during the time of such nonpayment:

Provided always that the said policy shall be renewed when such assessment shall have been paid unless the secretary give notice to the contrary to the assessed party in the manner hereinafter provided; but nothing shall relieve the assured party from his liability to pay such assessments or any subsequent assessments nor shall such assured party be entitled to recover the amount of any loss or damage which may happen to property insured under such policy while such assessment shall remain due and unpaid unless the board of directors in their discretion shall decide otherwise.

Notice of assessment

58. A notice of assessment upon any premium note or undertaking mailed as aforesaid shall be deemed sufficient if it embody the number of the policy, the period over which the assessment extends, the amount of the assessment, the time when and the place where payable.

Assessments to be *pro rata*

59. The assessment upon premium notes or undertakings shall always be in proportion to the amount of said notes or undertakings having regard to the branch or department to which their policies respectively appertain.

Right of suit on default in payment

60. If any member or other person who has given a premium note or undertaking shall for thirty days after notice of assessment shall have been mailed to him in manner aforesaid neglect or refuse to pay such assessment the company may sue for and recover the same with costs of suit and such proceeding shall not be a waiver of any forfeiture incurred by such nonpayment.

Evidence in suit

61. Whenever any assessment is made on any premium note or undertaking given to the company for any risk taken by the company or as a consideration for any policy of insurance issued or to be issued by the company and an action is brought to recover such assessment the certificate of the secretary of the company specifying such assessment and the amount due

to the company on such note or undertaking by means thereof shall be taken and received as *prima facie* evidence thereof in any court in the North-West Territories.

Contents of note to be retained in event of loss to implement contract

62. If there is a loss on property insured by the company the directors may retain the amount of the premium note given for insurance thereon until the time has expired for which insurance has been made and at the expiration of the said time the assured shall have the right to demand and receive such part of the retained sum as has been assessed for or become due under fixed payments.

Note to be given up after term of contract

63. Forty days after the expiration of the term of insurance the premium note given for the insurance policy shall on application therefor be given up to the grantor thereof provided all assessments levied and all losses and expenses with which the note is chargeable have been paid.

RESERVE OR GUARANTEE FUND.

Reserve fund

64. The company may form a reserve fund to consist of all moneys which shall remain on hand at the end of each year after payment of the ordinary expenses and losses of the company; and for that purpose the board of directors may levy an annual assessment not exceeding twenty-five per centum on the premium notes or undertakings held by said company and such annual assessment may be made in advance; and such reserve fund may from time to time be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year:

Provided that such reserve fund shall be invested either in debentures or other securities of the Dominion of Canada or the provinces of the Dominion or the North-West Territories, or in municipal or school debentures or real estate mortgages or other securities or may remain in a chartered bank on deposit at interest.

Reserve fund to be the property of company

65. The reserve fund shall be the property of the company as a whole and no member shall have any right to claim any share or interest therein in respect of any payment contributed by him towards it but in the event of the company being wound up possessed of an existing reserve fund the then members shall be entitled to divide the same among themselves *pro rata* according to the amount of their premium notes with the company.

CASH PREMIUM INSURANCE.

Short term policies may be issued on cash plan

66. A mutual company may effect policies of insurance on the cash premium plan for periods not exceeding one year and the directors shall prepare a tariff of rates for such policies but no single risk shall be undertaken of a larger amount than two thousand dollars.

Policy holders under cash plan not thereby to be members of company

67. Policy holders under the cash plan shall not as such be members of the company or have any liability for its debts or obligations.

BRANCHES OR DEPARTMENTS.

Separate branches

68. Any company may separate its business into branches or departments with reference to the nature or classification of risks or of the localities in which insurances may be effected.

Business to be kept separate

69. The directors of every company so separating its business shall make a scale of risks and tariff of rates for each branch and direct that the amounts of each shall be kept separate and distinct the one from the other.

Apportionment of expenses

70. All necessary expenses incurred in the conducting and management of any such company shall be assessed upon and divided between the several branches in such proportion as the directors may determine.

MISCELLANEOUS.

The Alberta Insurance Act to apply to the mutual policy

71. The provisions of *The Alberta Insurance Act* shall apply to all policies issued by a mutual company but it shall be optional with the directors to pay or allow claims which are void under the second and twelfth of the statutory conditions in the said Act and to waive the objections therein mentioned. 1915, c. 2, s. 21.

Limit on right to hold lands

72. The company may hold such lands only as are requisite for the accommodation of the company in the transaction of its business or such lands as have been *bona fide* mortgaged to it by way of security or conveyed to it in satisfaction of debts contracted in the course of its dealings or purchased at sale upon judgments obtained for such debts and may from time to time sell, mortgage and convey or lease any such lands.

Judgment against a mutual company not to issue for sixty days

73. In the event of judgment being obtained against a mutual company the issue of execution shall be stayed for sixty days from the date of judgment.

Winding up

74. In the event of the corporate powers of the company being forfeited in terms of section 9 of this Ordinance or in the event of the members adopting a resolution at a general meeting of which due notice has been given to wind up the company the company may in general meeting appoint a receiver or receivers to conduct the winding up proceedings and such receiver or receivers shall thereupon have the full power and authority of directors in the matter.

Receiver to effect reinsurance if funds are available

75. It shall be lawful for the receiver to use the reserve or guarantee funds if necessary to effect an equitable reinsurance of all risks held by the company whether held under the premium note plan or a short term policy on the cash plan.

Receiver to file statement

76. After winding up the affairs of the company the receiver shall file with the registrar a full statement of his transactions and intromissions with copy of minutes of a general meeting approving of his report and management.

CHAPTER 121.

An Ordinance to Establish and Incorporate a University for the North-West Territories.

(1903, 2nd Session, c. 26.)

Chapter 7, 1910 (2nd Session), substituted.

APPENDIX

Containing the following:—

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THE NORTH-WEST TERRITORIES ACT.

(Chapter 50, Revised Statutes of Canada, 1886, as amended up to the first day of September, 1905, the date of the coming into force of The Alberta Act.)

New Sections from amending Acts have the numbers bracketed thus: (1)

References at the end of sections or clauses indicate that the section or clause was amended to read as shown, by the enactment referred to.

An Act respecting the North-West Territories.

HER MAJESTY, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as *"The North-West Territories Act."* Short title

INTERPRETATION.

2. In this Act, unless the context otherwise requires— Interpretation

(*a*) The expression "Territories" means the North-West Territories, as defined in this Act; Territories

(*b*) The expression "The Lieutenant Governor" means the Lieutenant Governor of the North-West Territories; Lieutenant Governor

(*c*) The expression "Lieutenant Governor in Council" means the Lieutenant Governor of the Territories, by and with the advice and consent of the Executive Council of the Territories, or in conjunction with the Executive Council of the Territories, as the case may be; 60-61 Vic., c. 28, s. 2. Lieutenant Governor in Council defined

(*d*) The expression "Supreme Court" means the Supreme Court of the North-West Territories; Supreme Court

(*e*) The expression "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; Intoxicating liquor

(*f*) The expression "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid; Intoxicant

(*g*) The expression "Legislative Assembly" means the Legislative Assembly of the Territories composed, under the provisions of this Act, of the members elected to represent the several electoral divisions into which the Territories are or from time to time may be divided. 60-61 Vic., c. 28, s. 3. Legislative Assembly defined

THE NORTH-WEST TERRITORIES.

Territories defined

3. The Territories formerly known as "Rupert's Land" and the North-West Territory shall, with the exception of such portions thereof as form the Province of Manitoba and the District of Keewatin continue to be called and known as the North-West Territories. (*But see The Yukon Territory Act, 61 Vic., c. 6, s. 2.*)

THE LIEUTENANT GOVERNOR.

Lieutenant Governor

4. There shall be for the Territories an officer called the Lieutenant Governor appointed by the Governor in Council by instrument under the Great Seal of Canada who shall hold office during pleasure.

His powers

(2) The Lieutenant Governor shall administer the Government under instructions from time to time given him by the Governor in Council or by the Secretary of State of Canada.

Administrator

5. The Governor in Council may from time to time appoint an Administrator to execute the office and functions of the Lieutenant Governor during his absence, illness or other inability.

Oaths to be taken

6. Every Lieutenant Governor or Administrator so appointed shall before assuming the duties of his office take and subscribe before the Governor General or before some person duly authorized to administer such oaths an oath of allegiance and an oath of office similar to those required to be taken by a Lieutenant Governor under *The British North America Act,* 1867.

Salary

(**106.**) There shall be payable out of the Consolidated Revenue Fund of Canada the following sum annually, that is to say:

To the Lieutenant Governor, not exceeding..... $7,000

Travelling allowances

together with such sums of money as are from time to time fixed by the Governor in Council in respect of travelling allowances. 51 Vic., c. 19, s. 17.

(*Sections 7 and 8 were repealed by 51 Vic., c. 19, s. 1.*)

SEAT OF GOVERNMENT.

Seat of government

9. The seat of Government of the Territories shall be fixed and may from time to time be changed by the Governor in Council.

(*Section 10 was repealed by 51 Vic., c. 19, s. 1.*)

LAWS IN FORCE.

Laws of England on July 15, 1870, in force in Territories with certain exceptions

11. Subject to the provisions of this Act, the laws of England relating to civil and criminal matters, as the same existed on the fifteenth day of July, in the year of our Lord one thousand eight hundred and seventy, shall be in force in the Territories, in so far as the same are applicable to the Territories, and in so far as the same have not been or are not hereafter repealed,

altered, varied, modified or affected by any Act of the Parliament of the United Kingdom applicable to the Territories, or of the Parliament of Canada, or by any Ordinance of the Lieutenant Governor in Council or of the Legislative Assembly. 60-61 Vic., c. 28, s. 4.

Laws in force continued

12. All laws and Ordinances in force in the Territories, and not repealed by or inconsistent with this Act, shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the Legislative Assembly under the authority of this Act. 60-61 Vic., c. 28, s. 5.

THE LEGISLATIVE ASSEMBLY.

Legislative Assembly

(**2.**) There shall be a Legislative Assembly for the Territories which shall be composed of twenty-six members elected to represent the electoral districts set forth in the schedule to this Act until the said Legislative Assembly otherwise provides. 57-58 Vic., c. 17, s. 15.

Duration of Assembly

(**3.**) Every Legislative Assembly shall continue for four years from the date of the return of the writs for choosing the same; but the Lieutenant Governor may at any time dissolve the Assembly and cause a new one to be chosen. 54-55 Vic., c. 22, s. 3; 57-58 Vic., c. 17, s. 16.

Limit of time for session

(**4.**) There shall be a session of the Legislative Assembly convened by the Lieutenant Governor at least once in every year so that twelve months shall not intervene between the last sitting of the Assembly in one session and its first sitting in another session; and such Assembly shall sit separately from the Lieutenant Governor, and shall present Bills passed by it to the Lieutenant Governor for his assent, who may approve or reserve the same for the assent of the Governor General. 54-55 Vic., c. 22, s. 4.

Proceedings on bills

By 54-55 Vic., c. 22, s. 5, provisions was made for issue of writs and conduct of elections until the Assembly should otherwise provide. See now The Elections Ordinance.

Who may vote

(**7.**) The persons qualified to vote at an election for the Legislative Assembly shall be the male British subjects by birth or naturalization (other than unenfranchised Indians) who have attained the full age of twenty-one years, who have resided in the North-West Territories for at least the twelve months and in the electoral district for at least the three months respectively immediately preceding the time of voting. 51 Vic., c. 19, s. 7.

Who eligible for election

(**8.**) Any British subject by birth or naturalization shall be eligible for nomination and election.

Deposit at nomination

(2) No nomination at any election shall be valid and acted upon unless at or before the time of nomination a sum of one hundred dollars is deposited in the hands of the returning officer; and the receipt of the returning officer shall in every case be sufficient evidence of the payment herein mentioned.

How applied

(3) The sum so deposited shall be returned to the person by whom the deposit was made in the event of the candidate by

or on whose behalf it was so deposited, being elected or of his obtaining a number of votes at least equal to one-half the number of votes polled in favour of the candidate elected,—otherwise it shall belong to Her Majesty for the public uses of the Territories; and the sum so paid and not returned as herein provided shall be applied by the returning officer towards the payment of the election expenses and an account thereof shall be rendered by him to the Lieutenant Governor. 51 Vic., c. 19, s. 8.

Qualification of member of Legislative Assembly

(**18.**) No person holding any office, commission or employment to which an annual salary from the Crown is attached shall be eligible as a member of the Legislative Assembly or shall sit or vote therein during the time he holds such office, commission or employment; but nothing herein contained shall render ineligible any member of the Executive Council of the Territories by reason of any salary, fee, allowance, emolument or profit of any kind or amount attaching to such membership from being a member of the Assembly or shall disqualify him from sitting or voting therein; provided he is elected while holding such office and is not otherwise disqualified. 60-61 Vic., c. 28, s. 9.

Oath to be taken by members

(**9.**) Elected members of the Legislative Assembly shall take and subscribe before the Lieutenant Governor or before such person as is designated by the Governor in Council the following oath of allegiance:

"I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty, her heirs and successors." 51 Vic., c. 19, s. 9.

Quorum in Assembly

(**10.**) Until the Legislative Assembly otherwise provides a majority of the members shall form a quorum for the transaction of business. 51 Vic., c. 19, s. 10; 57-58 Vic., c. 17, s. 13.

Election of Speaker

(**11.**) The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its elected members to be Speaker.

Vacancy in office of Speaker

(2) In case of a vacancy happening in the office of Speaker by death, resignation or otherwise the Legislative Assembly shall proceed with all practicable speed to elect another of its elected members to be Speaker.

Speaker to preside

(3) The Speaker shall preside at all meetings of the Legislative Assembly;

Case of absence provided for

(4) Until the Legislative Assembly otherwise provides in case of the absence for any reason of the Speaker from the chair of the Assembly for forty-eight consecutive hours the Assembly may elect another of its members to act as Speaker and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges and duties of Speaker. 51 Vic., c. 19, s. 11.

Majority to decide

(**12.**) Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the Speaker and when the voices are equal but not otherwise the Speaker shall have a vote. 51 Vic., c. 19, s. 12.

13. The Legislative Assembly shall subject to the provisions of this Act or of any other Act of the Parliament of Canada, declared to be applicable to the Territories, have power to make Ordinances for the government of the Territories in relation to the classes of subjects next hereinafter mentioned, that is to say: Powers of Assembly

1. The mode of providing voters' lists, the oaths to be taken by voters, the appointment, powers and duties of returning officers and deputy returning officers, election and poll clerks and their oaths of office, the proceedings to be observed at elections, the periods during which such elections may be continued, and such other provisions with respect to such elections as may be thought fit;

2. Direct taxation within the Territories in order to raise a revenue for Territorial or municipal or local purposes;

3. The establishment and tenure of Territorial offices and the appointment and payment of Territorial officers out of Territorial revenues;

4. The establishment, maintenance and management of prisons in and for the Territories,—the expense thereof being payable out of Territorial revenues;

5. Municipal institutions in the Territories, including the incorporation and powers, not inconsistent with any Act of Parliament, of irrigation districts, that is to say, associations of the land owners and persons interested in the lands in any district or tract of land for the purpose of constructing and operating irrigation works for the benefit of such lands; 58-59 Vic., c. 31, s. 1.

6. Shop, saloon, tavern, auctioneer and other licenses in order to raise a revenue for Territorial or municipal purposes;

7. The incorporation of companies with Territorial objects with the following exceptions:

(*a*) Such companies as cannot be incorporated by a Provincial Legislature;

(*b*) Railway companies (not including tramway and street railway companies) and steamboat, canal, telegraph and irrigation companies; 58-59 Vic., c. 31, s. 2.

8. The solemnization of marriage in the Territories;

9. Property and civil rights in the Territories;

10. The administration of justice in the Territories, including the constitution, organization and maintenance of Territorial courts of civil jurisdiction, including procedure therein, but not including the power of appointing any judicial officers;

11. The imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinances;

12. The expenditure of Territorial funds and such portion of any moneys appropriated by Parliament for the Territories as the Lieutenant Governor is authorized to expend by and with the advice of the Legislative Assembly or of any committee thereof;

13. Generally all matters of a merely local or private nature in the Territories.

(2) Nothing in this section contained gives or shall be construed to give to the Legislative Assembly any greater powers with respect to the subjects therein mentioned than are given to Provincial Legislatures under the provisions of section ninety-two Limitation

of *The British North America Act*, 1867, with respect to the similar objects therein mentioned. 54-55 Vic., c. 22, s. 6; 60-61 Vic., c. 28, s. 6.

Powers given to Legislative Assembly in certain matters

(3) Notwithstanding anything in *The North-West Territories Act*, or any Act in amendment thereof, the Legislative Assembly may, by Ordinance, repeal the provisions of sections 49, 51, 53, 55, 64, 88, 89 and 90 of the said *North-West Territories Act* as amended, and re-enact the said provisions or substitute other provisions in lieu thereof; but nothing in this section shall be construed as giving to the Legislative Assembly power to pass Ordinances for the constitution, organization or maintenance of courts of criminal jurisdiction, or respecting procedure in criminal matters. 3 Edw. VII, c. 40, s. 3.

In certain other matters

(4) Notwithstanding anything in *The North-West Territories Act*, or any Act in amendment thereof, the Legislative Assembly may, by Ordinance, repeal the provisions of sections 7, 8, 9, 11 and 12 of chapter 19 of the Statutes of 1888, and section 18 of chapter 17 of the Statutes of 1894, as that section is enacted by section 9 of chapter 28 of the Statutes of 1897, and re-enact the said provisions or substitute other provisions in lieu thereof. 3 Edw. VII, c. 40, s. 4.

Ordinances respecting education

Majority schools

14. The Legislative Assembly shall pass all necessary Ordinances in respect to education; but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territories or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit and make the necessary assessment and collection of rates therefor; and also that the minority of the ratepayers therein whether Protestant or Roman Catholic may establish separate schools therein,—and in such case the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. 61 Vic., c. 5, s. 1.

Minority schools

(2) *Repealed.* 61 Vic., c. 5, s. 2.

(*Section 15 of the Act was repealed by 57-58 Vic., c. 17, s. 2.*)

Money votes to be first recommended

(**14.**) The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose that has not been first recommended to the Assembly by message of the Lieutenant Governor in the session in which such vote, resolution, address or bill is proposed. 51 Vic., c. 19, s. 14.

Juries

16. The Legislative Assembly may, from time to time, make Ordinances in respect to the mode of calling juries, other than grand juries, in criminal as well as civil cases, and when and by whom and the manner in which they may be summoned or taken, and in respect to all matters relating to the same. 60-61 Vic., c. 28, s. 7.

Jurisdiction in matters of alimony

(**20.**) For the removal of doubts it is hereby declared that subject to the provisions of *The North-West Territories Act* the Legislative Assembly has and shall have power to confer

on Territorial courts jurisdiction in matters of alimony. 57-58 Vic., c. 17, s. 20.

(**19.**) Notwithstanding anything in this Act or the said Act contained the Legislative Assembly may, by Ordinance, repeal the provisions of sections twenty-six to forty, both inclusive, and also in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to this Act, the provisions of sections ninety-two to one hundred, also both inclusive, of the said Act, together with all amendments thereto, and may re-enact the said provisions or substitute other provisions in lieu thereof. 54-55 Vic., c. 22, s. 19. As to wills and intoxicants

17. An authentic copy of every Ordinance shall be transmitted by mail to the Secretary of State within thirty days after its passing; and if the Governor in Council at any time within one year after its receipt by the Secretary of State thinks fit to disallow the Ordinance, such disallowance, when signified by the Secretary of State to the Lieutenant Governor, shall annul the Ordinance from and after the date of such signification; and all Ordinances so made, and all orders in council disallowing any Ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively. Disallowance of Ordinances

Submission to Parliament

(*Sections 18 to 25, both inclusive, were repealed by 51 Vic., c. 19, s. 1.*)

THE EXECUTIVE COUNCIL.

(**17.**) There shall be a Council to aid and advise in the government of the Territories to be styled the Executive Council of the Territories; and the persons who are to be members of that Council shall be, from time to time, chosen and summoned by the Lieutenant Governor and sworn in; and members thereof may be, from time to time, removed by the Lieutenant Governor. Executive Council of the Territories

(2) All powers, authorities and functions which, under any Act of the Parliament of Canada or Ordinance of the Territories, are vested in or exercisable by the Lieutenant Governor with the advice, or with the advice and consent, of the Executive Committee of the Territories, or in conjunction with that committee, shall, upon the passing of this Act be vested in, and shall or may be exercised by the Lieutenant Governor with the advice, or with the advice and consent of, or in conjunction with, the Executive Council of the Territories, subject, nevertheless, to be abolished or altered by competent legislative authority. 60-61 Vic., c. 28, s. 8. Powers

WILLS.

26. Every person may devise, bequeath or dispose of, by will executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity at the time of his death and which if not so devised,, bequeathed or disposed of would devolve upon his heir-at-law or upon his executor or administrator. Wills may be made

Testator must be of age

27. No will made by any person under the age of twenty-one years shall be valid.

Execution of wills

28. No will shall be valid unless it is in writing and executed in manner hereinafter mentioned that is to say:—it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator but no form of attestation shall be necessary.

No further publication

29. Every will executed in manner hereinbefore required shall be valid without any other publication thereof.

Sybsequent incompetency of witness

30. If any person who attests the execution of a will is at the time of the execution thereof or at any time afterwards incompetent to be admitted as a witness to prove the execution thereof, such will shall not on that account be invalid.

Executor may be witness

31. No person shall on account of his being an executor of a will be incompetent to be admitted as a witness to prove the execution of such will or as a witness to prove the validity or invalidity thereof.

Devise to witness to be void, but witness may prove execution

32. If any person attests the execution of any will to whom or to whose wife or husband any beneficial devise or legacy affecting any real or personal property (other than a charge for the payment of a debt) is thereby given, such devise or legacy shall so far only as concerns such person attesting the execution of such will, or the wife or husband of such person or any person claiming under such person, wife or husband, be null and void, and such person so attesting shall be admitted to prove the execution of such will or the validity or invalidity of such will notwithstanding such devise or legacy.

Revocation of wills and codicils

33. No will or codicil or any part thereof shall be revoked otherwise than by marriage or by another will or codicil executed in manner hereinbefore required or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

How a will shall be construed

34. Every will shall be construed with reference to the real and personal property affected by it, to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention appears by the will.

When fee simple shall pass

35. If any real property is devised to any person without any words of limitation such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will, in such real property, unless a contrary intention appears by the will.

MARRIED WOMEN.

36. All the wages and personal earnings of a married woman and any acquisitions therefrom and all proceeds or profits from any occupation or trade which she carries on separately from her husband or derived from any literary, artistic or scientific skill, and all investments of such wages, earnings, moneys or property shall be free from the debts or dispositions of the husband and shall be held and enjoyed by such married woman and disposed of without her husband's consent as fully as if she were a *feme sole*, and no order for protection shall be necessary in respect of any such earnings or acquisitions; and the possession, whether actual or constructive, of the husband, of any personal property of any married woman shall not render the same liable for his debts. Her own earnings to belong to her. No order necessary.

37. A married woman may make deposits of money in her own name in any savings or other bank and withdraw the same by her own cheque; and any receipt or acquittance of such depositor shall be a sufficient discharge to any such bank. Deposits in bank.

38. Nothing hereinbefore contained in reference to moneys deposited or investments by any married woman shall, as against any creditor of the husband, give validity to any deposit or investment of moneys of the husband made in fraud of such creditors; and any money so deposited or invested may be followed as if this Act had not been passed. Fraudulent investment not valid.

39. A husband shall not, by reason of any marriage, be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued therefor, and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf, or in respect of any of her own contracts. Debts of wife before and after marriage.

40. A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property, declared by this Act or which is hereafter declared to be her separate property, and shall have in her own name, the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property, and of any chattels or other her separate property, for her own use, as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman; and any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried. Suits by and against a married woman.

ADMINISTRATION OF JUSTICE.

41. The Supreme Court of record of original and appellate jurisdiction now existing under the name of "The Supreme Court of the North-West Territories" is hereby continued under the name aforesaid. Supreme Court continued.

Constitution of court

42. The Supreme Court shall consist of a chief justice, and not less than five puisné judges, who shall be appointed by the Governor in Council by letters patent under the Great Seal. 63-64 Vic., c. 44, s. 1; 3 Edw. VII, c. 40 (2).

Who may be appointed judge

43. Any person may be appointed a judge of the court who is or has been a judge of a Superior Court of any province of Canada, a stipendiary magistrate of the Territories, or a barrister or advocate of at least ten years' standing at the bar of any such province, or of the Territories.

No other office of emolument to be held

44. No judge of the court shall hold any other office of emolument under the Government of Canada, or of any province thereof, or of the Territories.

Residence

45. Each judge of the court shall reside at such place in the Territories as the Governor in Council, in the commission to such judge, or by order in council, directs.

Tenure of office

46. The judges of the court shall hold office during good behaviour, but shall be removable by the Governor General, on address of the Senate and House of Commons of Canada.

Oath to be taken

47. Every judge shall, previously to entering upon the duties of his office as such judge, take an oath in the form following:—

Form of oath

"I,....., do solemnly and sincerely promise and "swear that I will duly and faithfully and to the best of my "skill and knowledge, execute the powers and trusts reposed "in me as one of the judges of the Supreme Court of the North-"West Territories. So help me God."

How administered

(2) Such oaths shall be administered by the Lieutenant Governor or by a judge of the court.

Jurisdiction within the Territories civil and criminal

48. The court shall, within the Territories, and for the administration of the laws for the time being in force within the Territories, possess all such powers and authorities as by the law of England are incident to a superior court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the fifteenth day of July, one thousand eight hundred and seventy, used, exercised and enjoyed by any of Her Majesty's superior courts of common law, or by the Court of Chancery, or by the Court of Probate in England,—and shall hold pleas in all and all manner of actions, causes and suits as well criminal as civil, real, personal and mixed,—and shall proceed in such actions, causes and suits by such process and course as are provided by law, and as tend with justice and despatch to determine the same,—and shall hear and determine all issues of law, and shall also hear and (with or without a jury as provided by law) determine all issues of fact joined in any such action, cause or suit, and give judgment thereon and award execution thereof in as full and as ample a manner as might at the said date be done in Her Majesty's Court of Queen's Bench, Common Bench, or in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled

goods) by the Court of Exchequer, or by the Court of Chancery or the Court of Probate in England.

Sittings of Supreme Court

49. The court shall sit in banc at such times and places as the Lieutenant Governor in Council appoints; the senior judge present shall preside, and three judges of the court shall constitute a quorum. 61 Vic., c. 5, s. 3.

Jurisdiction in banc

Appeals

50. The court sitting in banc shall hear and determine all applications for new trials, all questions or issues of law, all questions or points in civil or criminal cases reserved for the opinion of the court, all appeals or motions in the nature of appeals, all petitions and all other motions, matters or things whatsoever which are lawfully brought before it. 57-58 Vic., c. 17, s. 4. Proviso repealed 3 Edw. VII, c. 40, s. 2 (2).

(2) Except where a question has been reserved and stated for the opinion of the Supreme Court of the North-West Territories as a Court of Appeal under section 743 of *The Criminal Code* 1892, the judge by or before whom the judgment, order or decision then in question was rendered or made, shall not sit as one of the judges composing the court unless his presence is necessary to compose a quorum. 3 Edw. VII, c. 40, s. 2.

Judicial districts

51. The Governor in Council may at any time by proclamation divide the Territories into judicial districts, and give to each such district an appropriate name, and in like manner, from time to time, alter the limits and extent of such districts.

Territorial jurisdiction of judges

52. Every judge of the court shall have jurisdiction throughout the Territories, but shall usually exercise the same within the judicial district to which he is assigned by the Governor in Council, and in all causes, matters and proceedings, other than such as are usually cognizable by a court sitting in banc, and not by a single judge of the said court, shall have and exercise all the powers, authorities and jurisdiction of the court.

Writs of *certiorar*

(2) Subject to any statute prohibiting or restricting proceedings by the way of *certiorari*, a single judge shall, in addition to his other powers, have all the powers of the court as to proceedings by way of *certiorari* over the proceedings, orders, convictions, and adjudications had, taken and made by justices of the peace, and in addition thereto shall have the power of revising, amending, modifying or otherwise dealing with the same; and writs of *certiorari* may, upon the order of a judge, be issued by the clerk of the court mentioned in such order returnable as therein directed. 54-55 Vic., c. 22, s. 7.

Powers of single judge

53. Whenever, under any Act in force in the Territories, any power or authority is to be exercised, or anything is to be done by a judge of a court, such power or authority shall, in the Territories, be exercised or such thing shall be done by a judge of the Supreme Court, unless any other provision is made in that behalf by such Act.

Judges to replace the former stipendiary magistrates

54. The judges of the Supreme Court shall have all the powers, authority and jurisdiction vested in the stipendiary magistrates of the Territories on the second day of June, one

thousand eight hundred and eighty-six; and wherever in any Act of the Parliament of Canada relating to the Territories, the words "stipendiary magistrate" or "stipendiary magistrates" are used, the same shall mean a judge or the judges of the Supreme Court, as the case may be.

Sittings, where held

55. Sittings of the Supreme Court, which shall be presided over by a judge of the court, shall be held in each judicial district at such times and places as the Lieutenant Governor of the Territories appoints.

Sheriffs and clerks

56. For each judicial district the Governor in Council may appoint a sheriff and the Lieutenant Governor in Council may appoint a clerk of the court, and may respectively name the place at which such sheriff and clerk, respectively, shall reside and keep an office; and the clerk of the district within which the seat of government of the Territories is situate, shall be registrar of the court sitting in banc. 60-61 Vic., c. 28, s. 10.

Deputy sheriffs and clerks

(2) And each sheriff and clerk shall appoint a deputy or deputies at such places within the district and with such powers as are, from time to time, determined by an Ordinance of the Legislative Assembly.

Vacancies

(3) In case of a vacancy happening in the office of sheriff or clerk by reason of death, incapacity or otherwise, his deputy may perform his duties until a successor is appointed; and where there is no such deputy, the judge usually exercising jurisdiction within the judicial district may appoint a person to fill the vacancy in the meantime.

Duties, etc., of sheriffs and clerks

(4) The Legislative Assembly may, subject to the provisions of this Act, define by Ordinance the powers, duties and obligations of sheriffs and clerks, and their respective deputies. 54-55 Vic., c. 22, s. 8.

Seal of the court

57. Each clerk of the court shall use such a seal for sealing processes issued out of the court in the district for which he is appointed as the Lieutenant Governor approves.

Bond to be given by sheriff

58. Before entering on the duties of his office every sheriff appointed under the provisions of this Act shall give security by bond, or by guarantee of some guarantee company approved by the Governor in Council, in the sum of two thousand dollars, and every clerk shall give the like security in the sum of one thousand dollars.

Sheriffs' and clerks' remuneration

59. Each sheriff shall be paid a yearly salary of five hundred dollars, and the Lieutenant Governor, by and with the advice and consent of the Legislative Assembly, may legislate with respect to the remuneration, by fees or otherwise, in civil matters, of sheriffs and clerks, including the registrar of the Supreme Court. 57-58 Vic., c. 17, s. 5.

(*Sections 60 and 61 of the Act were repealed by 57-58 Vic., c. 17, s. 6.*)

Sheriffs and clerks to be officers of the court generally

62. Every sheriff and clerk shall be an officer of the Supreme Court generally, and not merely of the judges sitting or acting in his district, and shall obey the lawful orders of the said court

and of the judges thereof, in whatever district such orders are made, provided anything is required to be done under them by the sheriff or clerk in his district.

Disposal of North-West Mounted Police Force

63. The Lieutenant Governor may, subject to any orders made in that behalf from time to time by the Governor in Council, issue orders to the North-West Mounted Police force, in aid of the administration of civil and criminal justice and for the general peace, order and good government of the Territories.

Justices of the peace

Property qualification

64. The Lieutenant Governor may appoint justices of the peace for the Territories, who shall have jurisdiction as such throughout the same; but, until the Legislative Assembly otherwise provides, no person shall be appointed a justice of the peace for the Territories or shall act as such who is not the owner in fee simple for his own use and benefit of lands lying and being in the Territories of and above the value of three hundred dollars over and above what will satisfy and discharge all encumbrances affecting the same and over and above all rents and charges payable out of or affecting the same, and who has not resided in the Territories for a period of at least three years. 60-61 Vic., c. 28, s. 11.

Oaths of qualification and office

(2) Every justice of the peace for the Territories, before he takes upon himself to act as such justice, shall take and subscribe before the Lieutenant Governor, a judge of the Supreme Court or any justice of the peace for the Territories, the oath of qualification and the oath of office contained in the schedule to this Act or such other oath or oaths as the Legislative Assembly from time to time prescribes. 60-61 Vic., c. 28, s. 12.

Police magistrates

(3) The Governor in Council may appoint police magistrates in the Territories and such police magistrates shall have all powers and authorities now vested in two justices of the peace under any law in Canada and shall exercise jurisdiction in and for such territory as is defined by the order in council appointing them respectively or by any order in council amending the same. 57-58 Vic., c. 17, s. 7.

Who may be appointed

(4) No person shall be appointed a police magistrate unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years. 57-58 Vic., c. 17, s. 7; 60-61 Vic., c. 28, s. 13.

Procedure

(**19.**) Unless otherwise therein specially provided proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinance may be brought summarily before a justice of the peace under the provisions of part LVIII of *The Criminal Code*, 1892. 57-58 Vic., c. 17, s. 19.

ADMINISTRATION OF CRIMINAL LAW.

Procedure in criminal cases

65. The procedure in criminal cases in the court shall, subject to any Act of the Parliament of Canada, conform as nearly as may be to the procedure existing in like cases in England on the fifteenth day of July in the year one thousand eight hundred and seventy; but no grand jury shall be summoned or sit in the Territories.

No grand jury

Record of preliminary investigation before justice to be transmitted to court

(**12.**) Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of *The Summary Convictions Act*, shall immediately after the conclusion of such investigation transmit to the clerk of the court for the judicial district in which the charge was made all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge; and the clerk of the court shall notify the judge thereof.

Duty of sheriff or gaoler

(2) Whenever any person charged is committed to gaol for trial the sheriff or other person in charge of such gaol shall within twenty-four hours notify the judge exercising jurisdiction at the time in the judicial district, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon with as little delay as possible the judge shall cause the prisoner to be brought before him for trial either with or without a jury as the case requires. 54-55 Vic., c. 22, s. 12.

Formal charge

(**11.**) In lieu of indictments and forms of indictment as provided by *The Criminal Procedure Act* the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged. 54-55 Vic., c. 22, s. 11.

Powers as to certain offences

66. Every judge of the Supreme Court shall have and exercise the powers of a justice of the peace or of any two justices of the peace under any laws or Ordinances in force in the Territories,—and may also hear and determine any charge against any person for any criminal offence alleged to have been committed in the Territories or (subject to the provisions of section fourteen of the Act passed by the Parliament of Canada in the forty-seventh year of Her Majesty's reign, and chaptered six) in any territory eastward of the Rocky Mountains wherein the boundary between the Province of British Columbia and the Territories has not been officially ascertained, when the accused is charged—

Theft, etc.

(*a*) With having committed or attempted to commit theft, embezzlement, or obtaining money or property by false pretences, or receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received does not in the opinion of such judge exceed two hundred dollars; or—

Aggravated assault

(*b*) With having committed an aggravated assault by unlawfully and maliciously inflicting upon any other person either with or without a weapon or instrument any grievous bodily harm or by unlawfully and maliciously wounding any other person; or—

Assault on a female, etc.

(*c*) With having committed an assault upon any female whomsoever or upon any male child whose age does not in the opinion of the judge exceed fourteen years; and when such assault, if upon a female, does not in his opinion amount to an assault with intent to commit a rape; or—

Escape from custody

(*d*) With having escaped from lawful custody or committed prison breach, or assaulted, obstructed, molested or hindered any judge, justice of the peace, commissioned officer of police,

constable, bailiff or other peace officer or officer of customs or excise or other officer in the lawful performance of his duty or with intent to prevent the performance thereof.

(2) The charge shall be tried in a summary way and without the intervention of a jury. 60-61 Vic., c. 28, s. 14. Summary trial

67. When the person is charged with any other criminal offence the same shall be tried, heard and determined by the judge with the intervention of a jury of six; but in any such case the accused may with his own consent be tried by a judge in a summary way and without the intervention of a jury. 54-55 Vic., c. 22, s. 9. Trial by jury

68. Whenever upon a trial before a judge in a summary way under either section sixty-six or section sixty-seven of this Act such judge is not satisfied that the accused is guilty of the offence with which he stands charged but the circumstances are such that upon a trial before a jury under *The Criminal Procedure Act* for the like offence the jury might find the accused guilty of some other offence, the judge shall have the same power as to findings as a jury would have in the like circumstances under the said last mentioned Act, and may convict the accused of such other offence, notwithstanding that such offence is one for which under section sixty-seven aforesaid the accused could not without his own consent have been tried in a summary way; and the person so convicted shall be liable to the punishment by the said last mentioned Act or otherwise by law prescribed for the offence of which he is so found guilty. 54-55 Vic., c. 22, s. 10. On trial for one offence, conviction may be for another R.S.C., c. 174

69. The judge shall upon every such trial take or cause to be taken down in writing full notes of the evidence and other proceedings thereat; and all persons tried as aforesaid shall be admitted after the close of the case for the prosecution to make full answer and defence by counsel, attorney or agent. Notes of evidence Defence by counsel

70. When any person is convicted of a capital offence and is sentenced to death the judge shall forward to the Minister of Justice full notes of the evidence with his report upon the case; and the execution shall be postponed from time to time by the judge if found necessary until such report is received and the pleasure of the Governor General thereon is communicated to the Lieutenant Governor. Sentence of death to be reported Stay of execution

71. Persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf; and the jury required on such trial shall be called from among the persons so summoned as such jurors and shall be sworn by the judge who presides at the trial. Summoning jurors

(2) The Governor in Council may at any time by proclamation declare that this section shall be repealed from and after the date named in such proclamation. 57-58 Vic., c. 17, s. 8.

72. Any one arraigned for treason or an offence punishable with death or an offence for which he may be sentenced to imprisonment for more than five years, may challenge peremptorily, and Peremptory challenges by accused

without cause, any number of jurors not exceeding six; and every peremptory challenge beyond that number shall be void. 57-58 Vic., c. 17, s. 9.

By the Crown

(2) The Crown may peremptorily challenge any number of jurors not exceeding four.

Challenges for cause

(3) Challenges for cause shall be the same as are provided for under *The Act respecting Procedure in Criminal Cases.*

If the list of jurors is exhausted

Tales

73. If, by reason of challenges or otherwise, the number of jurors summoned for the trial is exhausted, the judge shall direct some constable or other person to summon, by word of mouth, from among the bystanders or from the neighbourhood, such number of persons as are necessary to make up a jury,—the persons so summoned being subject to challenge as those summoned by the judge in the first instance; and the like proceedings shall be repeated, if necessary, until a jury is obtained, competent to try the case; and any person summoned, as hereby provided, to serve as a juror, who makes default or refuses to serve as such juror, without lawful excuse to the satisfaction of the judge, may be fined by him a sum not exceeding ten dollars, and committed to prison until such fine is paid.

Fine for nonattendance

Witness failing to attend guilty of contempt

74. Any person duly summoned, whether on behalf of the prisoner or against him, to attend and give evidence on any such trial, shall be bound to attend on the day appointed for the same, and shall remain in attendance throughout the whole trial; and if he fails so to attend, he shall be deemed guilty of contempt of court, and may be proceeded against therefor.

Proceedings in such case

75. Upon proof, to the satisfaction of the judge, of the summoning of any witness who fails to attend, and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may, by his warrant, cause the said witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant, with a view to secure his presence as a witness, or may be released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer for his contempt; or the judge may, in a summary manner, examine and dispose of the charge of contempt against the said witness, who, if found guilty thereof, may be fined or imprisoned, or both, —such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labor, and not to exceed the term of ninety days.

Fine and imprisonment

Returns to Lieutenant Governor

76. Returns of all trials and proceedings, civil and criminal, shall be made to the Lieutenant Governor in such form and at such times as he directs.

Governor in Council may repeal ss. 67 to 76 inclusive by proclamation

77. The Governor in Council may, from time to time, by proclamation, declare that the ten sections next preceding, or any of them, shall be repealed from and after the date named in such proclamation.

Where convict may be imprisoned

78. If imprisonment for any term not less than two years is awarded in any case, the convict may be ordered to be im-

prisoned in any gaol or penitentiary in the Territories or to be conveyed to the penitentiary in the Province of Manitoba, on the warrant of the judge; and whenever any convict or accused person is ordered to be conveyed to the penitentiary in Manitoba, any constable or other person in whose charge he is to be so conveyed, may hold and convey him, or re-take him in case of an escape; and the warden of the penitentiary in Manitoba may detain and deal with him, in the said province, as if such penitentiary was within the Territories, or as if the said convict or accused person had been ordered to be conveyed to such penitentiary by some competent court or authority in the said province.

Conveyance of prisoners

Duties and powers of warden

79. If it is impossible or inconvenient, in the absence or remoteness of any gaol or other place of confinement, to carry out any sentence of imprisonment, any judge or justice of the peace may sentence any person convicted before him of an offence, other than the breach of a municipal by-law, to be placed and kept in the custody of the North-West Mounted Police force, with or without hard labor; and any police guard-house or guard-room in the Territories shall be a penitentiary, gaol or place of confinement for all purposes, except the confinement of any person sentenced to imprisonment for breach of a municipal by-law; but if any municipality makes arrangements with the Commissioner of the North-West Mounted Police for the maintenance of persons convicted of a breach of any by-law of such municipality during the period of their sentence, the provisions of this section shall thereafter apply to such persons in like manner as to other offenders 54-55 Vic., c. 22, s. 13.

When prisoner may be placed in custody of N.W.M. Police

80. The Governor in Council may, from time to time, direct that any building or buildings, or any part thereof, or any enclosure or enclosures, in any part or parts of the Territories, shall be a gaol or lock-up for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment or confinement therein; and confinement therein shall thereupom be held lawful and valid whether such prisoners are being detained for trial or are under sentence of imprisonment in a penitentiary, gaol or other place of confinement; and the Governor in Council may at any time direct that any building or any part thereof, or any enclosure, shall cease to be a gaol or lock-up, and thereupon such building or part thereof, or such enclosure shall cease to be a gaol or lock-up.

What may be a gaol

(2) The Governor in Council shall have power to make rules and regulations for the management, discipline and policy of such gaols or lock-ups and for fixing and prescribing the duties and conduct of the gaoler and every other officer or servant employed therein and for the diet, bedding, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons confined therein, and to annul, alter and amend the same from time to time; and all gaolers, officers, prisoners and other persons shall be bound to obey such rules and regulations.

Gaol discipline

(3) The Governor in Council shall also have power from time to time to prescribe the terms and conditions upon which persons convicted or accused of any offence under any Ordinance of the North-West Territories or any municipal by-law or regu-

Conditions upon which prisoners are kept

lation, or sentenced to confinement under any such Ordinance, by-law or regulation, or arrested under any civil process, shall be received and kept in any gaol or lock-up created under the authority of this section; and he may from time to time specify what gaols and lock-ups shall be available for the confinement of such persons. 54-55 Vic., c. 22, s. 14.

Limitation of time for proceedings

81. In all cases in the Territories when proceedings before justices of the peace are authorized to be summary and when no time is specially limited for making any complaint or laying any information in the Act or law relating to the particular case, the complaint shall be made and the information shall be laid within twelve months from the time when the matter of the complaint or information arose.

CORONERS AND INQUESTS.

Who shall be coroners

82. The Indian Commissioner for the Territories, the judges of the Supreme Court, the commissioner and assistant commissioner of the North-West Mounted Police and such other persons as the Lieutenant Governor from time to time appoints, shall be coroners in and for the Territories.

When inquests may be held

83. Except as hereinafter provided no inquest shall be held upon the body of any deceased person by any coroner unless it has been made to appear to such coroner that there is reason to believe that the deceased died from violence or unfair means or by culpable or negligent conduct either of himself or of others, under such circumstances as require investigation and not through mere accident or mischance.

Deceased prisoners

84. Upon the death of any prisoner the gaoler or officer in charge of the goal wherein such prisoner dies shall immediately give notice to the nearest resident coroner and such coroner shall proceed forthwith to hold an inquest upon the body.

Number of jury

85. It shall not be necessary in any case that a coroner's jury shall exceed six persons but in every case of an inquest six jurors must agree in order to render the verdict valid.

Powers of coroners

86. Coroners shall have the same powers to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are enjoyed by justices of the peace.

Fees

87. The fees of coroners, jurors and witnesses attending criminal trials and inquests may be fixed from time to time by the Governor in Council and paid in such manner as he directs.

ADMINISTRATION OF CIVIL JUSTICE.

Civil jurisdiction of judge

88. Every judge of the Supreme Court shall have jurisdiction, power and authority to hold courts, whether established by Ordinance of the Legislative Assembly or not, at such times and places as he thinks proper and at such courts as sole judge to hear all claims, disputes and demands whatsoever except as

herein provided, which are brought before him and to determine any questions arising thereout, as well of fact as of law, in a summary manner; and such courts shall be open public courts.

Trial by jury in certain cases

(2) Provided that in cases where the claim, dispute or demand arises out of a tort, wrong or grievance and in which the amount claimed exceeds five hundred dollars, or if for a debt or on a contract in which the amount claimed exceeds one thousand dollars, or for the recovery of the possession of real property, if either party demands a jury or in any such case in which the judge thinks fit so to direct, he may direct that all questions of fact therein shall be tried and determined by a sworn jury of six in number summoned in the manner hereinbefore provided as to criminal trials.

Reference of disputed accounts

(3) Provided further that in cases of disputed accounts the judge may in place of a trial by jury direct the evidence to be taken by the clerk of any court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing.

Judgment

(4) The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid or may order a new trial when justice seems to require the same; and in all cases a judge may give such judgment and make such orders and decrees, interlocutory and final, as in such cases brought before him appear just and agreeable to equity and good conscience; but no court or judge in the Territories shall have jurisdiction in respect of any action for a gambling debt or for the price of any intoxicating liquor or intoxicant or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever, the consideration or any part of the consideration for which, was a gambling debt or any intoxicating liquor or intoxicant. 60-61 Vic., c. 28, s. 15.

No action fo gambling debts or intoxicants

Judgment, how given

89. Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case; except that in any case where the judge is not prepared to pronounce judgment at the close of the trial he may postpone judgment and deliver and enter the same subsequently and such judgment shall be as effectual as if rendered in court at the trial.

Execution of judgment

90. The proceedings to carry into effect any such judgment, order or decree, whether interlocutory or final, shall be as prescribed by any Ordinance of the Legislative Assembly; or if no such Ordinance is in force when any such judgment, order, or decree is rendered, then in such manner as the judge who pronounced the same directs. 60-61 Vic., c. 28, s. 16.

Governor in Council may repeal sections 88 to 90 by proclamation

91. The Governor in Council may from time to time by proclamation declare that the three sections next preceding, or any of them, or any portion or portions of the said sections or of any of them, shall be repealed from and after the date named in such proclamation. 57-58 Vic., c. 17, s. 10.

PROHIBITION OF INTOXICANTS.

Intoxicants not to be manufactured, etc., without permission

92. No intoxicating liquor or intoxicant shall be manufactured, compounded or made in the Territories, except by special per-

mission of the Governor in Council; nor shall any intoxicating liquor or intoxicant be imported or brought into the Territories from any province of Canada, or elsewhere, or be sold, exchanged, traded or bartered, or had in possession therein, except by special permission, in writing, of the Lieutenant Governor.

Customs and excise laws to apply

(2) Intoxicating liquors or intoxicants imported or brought from any place out of Canada into the Territories, by special permission in writing of the Lieutenant Governor, shall be subject to the customs and excise laws of Canada.

Return of permissions

93. The Lieutenant Governor shall make an annual return, up to the thirty-first day of December in each year, of the number of such permissions so given by him, and the quantity and nature of the intoxicating liquors and intoxicants in each case, to the Minister of the Interior, who shall lay the same before Parliament.

Forfeiture of intoxicant

94. If any such intoxicating liquor or intoxicant is manufactured or made in the Territories, or is imported or brought into the Territories, or is sold, exchanged, traded or bartered in violation of the provisions of this Act, such liquor or intoxicant shall be forfeited, and may be seized by any officer of the customs or excise, or by any constable or other duly qualified person wheresoever found; and any judge of the Supreme Court or justice of the peace on complaint made before him may, on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof, order such intoxicating liquor or intoxicant so seized to be forthwith destroyed; or if such liquor or intoxicant has not been seized such judge or justice of the peace on complaint as aforesaid may issue a search warrant, as in cases of stolen goods, and upon the same being found may cause them to be forthwith destroyed; and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered, and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid, and the remainder of the contents thereof, if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified, may be seized by any officer of the customs or excise or by any constable or other duly qualified person wheresoever found within the Territories; and any judge of the Supreme Court or justice of the peace may, on complaint before him and on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof, declare such intoxicating liquor or intoxicant, still, machinery, vessel or receptacle forfeited and cause the same to be forthwith destroyed; and the person in whose possession any of them are found shall incur a penalty not exceeding $200 and not less than $50 with costs; and a moiety of such penalty shall belong to the person laying the information, and the other moiety thereof shall belong to Her Majesty for the public uses of Canada. 54-55 Vic., c. 22. s. 15.

Search warrant may be granted

Still machinery and receptacle may be seized

And forfeited

Penalty and application thereof

Vehicles conveying liquor may be seized

(2) Every vehicle on which any such intoxicating liquor or intoxicant is imported or conveyed into or through or over any portion of the Territories contrary to the provisions of this Act

shall, together with the horses or other cattle employed in drawing any such vehicle as aforesaid, be forfeited to Her Majesty and may be seized and dealt with accordingly. 51 Vic., c. 19, s. 18.

Penalty for manufacturing intoxicating liquors, etc., without permission

95. Every person who without special permission as aforesaid issued to him, manufactures, makes, compounds, imports, sells, exchanges, trades or barters any intoxicating liquor or intoxicant, or in whose possession or on whose premises any intoxicating liquor or intoxicant of any kind is, without such special permission issued to him, shall incur a penalty not exceeding $200 and not less than $50,—a moiety of which penalty shall belong to the person laying the information. 54-55 Vic., c. 22, s. 16.

Penalty for having articles exchanged for intoxicants in possession

96. Every person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part, for any intoxicating liquor or intoxicant shall for each offence incur a penalty not exceeding $200 and not less than $50,—a moiety of which penalty shall belong to the informer.

Forfeiture of things accessory to offence

97. Every article, chattel, commodity or thing, in the purchase, acquisition, exchange, trade or barter of which the consideration either wholly or in part is any intoxicating liquor or intoxicant, shall be forfeited to Her Majesty and shall be seized as hereinbefore provided in respect to any receptacle of any intoxicating liquor or intoxicant.

Penalty for refusing to assist constable

98. Every person who refuses or neglects to aid any constable, sub-constable or other duly authorized person in the execution of any act or duty required under any of the six sections next preceding, or who knowingly refuses to give information or gives false information in respect to any matter arising therefrom, shall incur a penalty not exceeding $200 and not less than $50,—a moiety of which penalty shall belong to the informer.

Recovery of penalties

99. Every penalty incurred under any of the seven sections next preceding shall be recoverable with costs on summary conviction on the evidence of one credible witness before any judge of the Supreme Court or justice of the peace, who shall on payment of such penalty and costs pay the informer his share thereof; and in case of nonpayment of the penalty and costs immediately after conviction the convicting judge or justice of the peace may in his discretion levy the same by distress and sale or may commit the person who is so convicted and makes default to any common gaol or house of correction or lock-up house for a term not exceeding six months with or without hard labour, unless the said penalty and costs are sooner paid; and upon conviction for a subsequent offence the offender shall be liable to a penalty not exceeding $400 and not less than $200, payable and recoverable as in this section provided and, in the discretion of the convicting judge or justice of the peace, to imprisonment with or without hard labour in any common gaol or house of correction or lock-up house for a further term not exceeding six months.

Penalty for a subsequent offence

Conviction, etc., not invalid for want of form

100. No seizure, prosecution, conviction or commitment under this Act shall be invalid for want of form, so long as the same is according to the true intent and meaning of this Act.

SALE OF ARMS AND AMMUNITION.

Interpretation

101. In this section—

Improved arm

(*a*) The expression "improved arm" means and includes all arms except smooth bore shot guns;

Ammunition

(*b*) The expression "ammunition" means fixed ammunition or ball cartridge.

(2) Every person who, in the Territories,—

Supplying arms and ammunition without a permit

(*a*) Without the permission in writing (the proof of which shall be on him) of the Lieutenant Governor, or of a commissioner appointed by him to give such permission, has in his possession or sells, exchanges, trades, barters or gives to, or with any person, any improved arm or ammunition, or—

Or to unauthorized persons

(*b*) Having such permission, sells, exchanges, trades, barters or gives any such arm or ammunition to any person not lawfully authorized to possess the same—

To be offences, and how punishable

shall on summary conviction before a judge of the Supreme Court or two justices of the peace, be liable to a penalty not exceeding $200, or to imprisonment for any term not exceeding six months, or to both.

Search for and seizure of arms and ammunition sold contrary to this section

(3) All arms and ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section, shall be forfeited to the Crown, and may be seized by any constable or other peace officer; and any judge of the Supreme Court or justice of the peace may issue a search warrant to search for and seize the same, as in the case of stolen goods.

Regulations by Governor in Council

(4) The Governor in Council may, from time to time, make regulations respecting—

Permits for arms, etc.

(*a*) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition;

Fees

(*b*) The fees to be taken in respect thereof;

Returns

(*c*) The returns to be made respecting permissions granted; and—

Disposition

(*d*) The disposition to be made of forfeited arms and ammunition.

Proviso

(5) The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of Her Majesty's forces, of the militia force, or of the North-West Mounted Police force.

Section may be proclaimed in force at any place in N.W.T.

(6) The Governor in Council may from time to time declare by proclamation that upon and after a day therein named this section shall be in force in the Territories, or in any place or places therein in such proclamation designated; and upon and after such day, but not before, the provisions of this section shall take effect and be in force accordingly.

And proclamation may be revoked

(7) The Governor in Council may in like manner, from time to time, declare this section to be no longer in force in any such place or places, and may again, from time to time, declare it to be in force therein.

To be judicially noticed

(8) All courts, judges and justices of the peace shall take judicial notice of any such proclamation.

APPEALS FROM JUSTICES OF THE PEACE.

Court of appeal from justices of the peace

102. The court of appeal from convictions and orders of justices of the peace in the Territories shall be a judge of the Supreme Court sitting without a jury; and the clerk of the peace or other proper officer mentioned in the *Act respecting Summary Proceedings before Justices of the Peace* shall in the Territories mean the clerk of the Supreme Court of the judicial district within which such conviction takes place or such order is made.

LUNATICS.

Removal of lunatics in custody, by order of Lieutenant Governor

103. Whenever under any law or Ordinance in force in the Territories, any insane person is kept in custody until the pleasure of the Lieutenant Governor is known or until such person is discharged by law, the Lieutenant Governor may cause such person to be removed to and confined in any asylum or place of confinement from time to time designated for that purpose by the Governor in Council, and the superintendent or warden of such asylum or place of confinement shall receive such person and detain him therein until the pleasure of the Lieutenant Governor is known or until such person is discharged by law.

Removal of lunatics confined before date specified

(2) The Lieutenant Governor of the Province of Manitoba may cause any insane person who came from the Territories and who was confined in a temporary lunatic asylum on the twentieth day of July, one thousand eight hundred and eighty-five, to be removed to the Manitoba lunatic asylum; and the superintendent of the said asylum or the superintendent of such temporary lunatic asylum, as the case may be, shall detain every such person committed to his keeping until the pleasure of the Lieutenant Governor is known, or until such person is discharged by law.

Recapture of lunatics escaping from confinement

104. If any insane person confined in such asylum or place of confinement under this Act, escapes therefrom, any of the officers or servants thereof or any other person or persons at the request of such officers or servants or any of them, may within forty-eight hours after such escape if no warrant has been issued and within one month after such escape if a warrant in the form in the schedule to this Act has been issued by the superintendent or warden of such asylum or place of confinement in that behalf, retake such escaped person and return him thereto; and he shall remain in custody therein under the authority by virtue of which he was detained prior to such escape.

Manitoba to be indemnified for care of lunatics from N.W.T.

105. The Minister of the Interior may, subject to the approval of the Governor in Council, make such arrangements with the Lieutenant Governor of Manitobia as seem reasonable as to the compensation to be made by Canada to that province for the care and maintenance of persons detained in the Manitoba lunatic asylum or in such temporary asylum as aforesaid.

(*Section 106 is placed under heading "The Lieutenant Governor."*)

ROAD ALLOWANCES.

Control of road allowances

107. All road allowances in townships now or hereafter surveyed and subdivided in the Territories and all road allowances set out on block lines now or hereafter surveyed in the Territories, the plans of survey whereof have been duly approved, shall be subject to the direction, management and control of the Lieutenant Governor in Council for the public use of the Territories, subject to any Ordinance made or to be made with respect thereto. 60-61 Vic., c. 28, s. 18.

Survey and transfer of certain roads

108. On the Minister of the Interior receiving notice from the Lieutenant Governor in Council of any particular thoroughfare or public travelled road or trail in the Territories which existed as such prior to the subdivision of the land into sections and which it is desired to have transferred to the Territories, the Governor in Council may pass an order authorizing the survey of such road or trail by a Dominion land surveyor, such survey to be made under instructions from the Lieutenant Governor in accordance with a manual of instructions regarding the manner of making such surveys approved by the Surveyor General of Dominion lands; and upon approval of the returns of such survey by the Surveyor General one copy thereof shall be filed in the Department of the Interior and one in the land titles office for the district within which such road or trail is situated; and such road or trail may then be transferred by the Governor in Council for the use of the Territories subject to any rights which may have been acquired under letters patent issued previous to such transfer.

(2) The width of such road or trail shall be one chain or sixty-six feet; and in making the survey the surveyor shall make such changes in the location of the road or trail as he finds necessary for improving it, without, however, altering its main direction. 60-61 Vic., c. 28, s. 19.

Ordinance respecting closing of old roads, etc.

(**21.**) The Legislative Assembly may pass Ordinances with respect to the closing up or varying the direction of any road allowance, or of any trail which has been transferred to the Territories and the opening and establishing of any new highway instead of any road or trail so closed, and the disposition of the land in any such road or trail. 60-61 Vic., c. 28, s. 20; 2 Edw. VII, c. 24, s. 1.

(2) Any Ordinance heretofore passed with respect to the matters mentioned in this section is hereby declared to have been and to be valid. 2 Edw. VII, c. 24 (1).

Notwithstanding section six of chapter fifteen of the Statutes of 1892 any action heretofore taken by the Lieutenant Governor in the manner provided in subsection one of this section with respect to roads or trails, with the consent of the Governor in Council, but without the concurrence of the Assembly of the North-West Territories, is hereby declared to have been and to be valid. 57-58 Vic., c. 17, s. 21 (2).

Survey of new roads

(**21.**) The Lieutenant Governor in Council may cause to be surveyed and marked on the ground such roads or trails as are from time to time deemed necessary to aid in the development

of any district which cannot be served by existing road allowances or by old trails mentioned in the section substituted for section one hundred and eight of the said Act by section nineteen of this Act.

(2) Such roads shall be laid out one chain or sixty-six feet in width; and in making the survey the manual of instructions mentioned in the said section shall be followed and one copy of the returns of such survey shall be filed in the land titles office for the district within which such trail is situated and a second copy in the offices of the North-West Government at Regina. 60-61 Vic., c. 28, s. 21.

(3) The effect of the filing of the returns of survey as in this section provided, whether before or after the coming into force of this Act, shall be to vest the lands shown on such returns as a road or trail in His Majesty for the public use of the Territories as a highway, without prejudice, however, to the legal rights of the owner to compensation therefor. 2 Edw. VII, c. 24 (2).

GENERAL PROVISIONS.

Provision when there are no such officers as are designated in Act of Parliament

109. Whenever in any Act of the Parliament of Canada in force in the Territories any officer is designated for carrying on any duty therein mentioned and there is no such officer in the Territories, the Lieutenant Governor in Council may order by what other person or officer such duty shall be performed,— and anything done by such person or officer under such order shall be valid and lawful in the premises; or if it is in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place, and there is then in the Territories no such officer, court or territorial division or place, the Lieutenant Governor in Council may order to what officer, court or place such transmission shall be made or may dispense with the transmission thereof.

English and French languages

Proviso Proceedings in Assembly

110. Either the English or the French language may be used by any person in the debates of the Legislative Assembly of the Territories and in proceedings before the courts; and both those languages shall be used in the records and journals of such Assembly; and all Ordinances made under this Act shall be printed in both those languages: Provided, however, that after the next general election of the Legislative Assembly, such Assembly may, by Ordinance or otherwise, regulate its proceedings and the manner of recording and publishing the same; and the regulations so made shall be embodied in a proclamation which shall be forthwith made and published by the Lieutenant Governor in conformity with the law, and thereafter shall have full force and effect. 54-55 Vic., c. 22, s. 18.

Certain printed copies of laws, etc., to be evidence

111. Any copy of any proclamation or order made by the Governor in Council, or Ordinance, proclamation or order made by the Lieutenant Governor in Council, or by the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the North-West Territories, as the case may be, printed in the *Canada Gazette*, or purporting to be printed by the Queen's Printer for Canada, or by the printer to the Govern-

ment of Manitoba at Winnipeg, or by the printer to the Government of the North-West Territories, shall be *prima facie* evidence of such proclamation or order, and of the fact that it is in force.

APPLICATION OF ACTS TO TERRITORIES.

Application of Acts of Canada

112. Every Act of the Parliament of Canada, except in so far as otherwise provided in any such Act, and except in so far as the same is by its terms applicable only to one or more of the Provinces of Canada, or in so far as any such Act is, for any reason, inapplicable to the Territories, shall subject to the provisions of this Act apply and be in force in the Territories.

Governor in Council may extend Acts to the Territories

(2) The Governor in Council may by proclamation from time to time direct that any Act of the Parliament of Canada, or any part or parts thereof, or any one or more of the sections of any one or more of any such Acts not then in force in the Territories, shall be in force in the Territories generally or in any part or parts thereof mentioned in such proclamation.

SCHEDULE.

Warrant to Retake Escaped Patient.

Manitoba Lunatic Asylum (*or as the case may be.*)

To.....and all or any of the peace officers in the County (*or as the case may be*) of....

Whereas, on the.....day of.....last past, being within one month from the date hereof, *A.B.*, an insane person confined in the Manitoba Lunatic Asylum (*or* as *the case may be*), of which I,.....am superintendent (*or* warden), did escape from the said asylum (*or as the case may be*):

These are therefore to authorize and command you or any of you the said constables or peace officers in Her Majesty's name at any time within one month from the date of the said escape to retake the said *A.B.* and safely convey him to this asylum (*or as the case may be*) and deliver him into my charge.

Given under my hand and seal this..... day of.....in the year at....., in the county aforesaid.

(*Signature.*) [L.S.]

.....*Superintendent.*

Oath of Qualification of a Justice of the Peace for the North-West Territories.

I, *A.B.*, of.....in the North-West Territories, do swear that I truly and *bona fide* have to and for my own proper use and benefit an estate in fee simple in lands situate in the North-West Territories of such value as doth qualify me

to act as a justice of the peace, according to the true intent and meaning of the statute in that behalf and that such lands are the following:—

So help me God.

Sworn (*or* affirmed) before me, at.....this.....day day of.....A.D. 18.... } (*Signature.*)

OATH OF OFFICE OF A JUSTICE OF THE PEACE FOR THE NORTH-WEST TERRITORIES.

I, *A.B.*, of.....in the North-West Territories, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of justice of the peace and will do right to all manner of people, after the laws and usages of these Territories, without fear or favour, affection or ill-will.

So help me God.

Sworn (*or* affirmed) before me, at.....this..... day of.....A.D. 18.... } (*Signature.*)

57-58 Vic., c. 17.

NOTE.—6-7 Edw. VII, c. 44, an Act to amend Schedule A to the Revised Statutes 1906, is as follows:—

1. Schedule A to the Revised Statutes, 1906, is hereby amended by inserting in the third column thereof, headed "Extent of Repeal," the words "except as regards the Provinces of Saskatchewan and Alberta" opposite each of the following items:— R.S., 1906, schedule A amended

(*a*) Revised Statutes of Canada, 1886, chapter 50, An Act respecting the North-West Territories;

(*b*) 51 Victoria, chapter 19, An Act to amend the Revised Statutes of Canada, chapter 50, respecting the North-West Territories;

(*c*) 54-55 Victoria, chapter 22, An Act to amend the Acts respecting the North-West Territories;

(*d*) 57-58 Victoria, chapter 17, An Act further to amend the Act respecting the North-West Territories;

(*e*) 57-58 Victoria, chapter 31, An Act for the preservation of Game in the unorganized portions of the North-West Territories of Canada;

(*f*) 60-61 Victoria, chapter 28, An Act further to amend the Act respecting the North-West Territories;

(*g*) 60-61 Victoria, chapter 32, An Act respecting Trials by Jury in certain cases in the North-West Territories;

(*h*) 61 Victoria, chapter 5, An Act further to amend the Acts respecting the North-West Territories;

(*i*) 1 Edward VII, chapter 21, An Act to amend the Unorganized Territories Game Preservation Act, 1894;

(*j*) 2 Edward VII, chapter 24, An Act further to amend the Acts respecting the North-West Territories;

(*k*) 3 Edward VII, chapter 40, An Act to amend the North-West Territories Act.

Retroaction

2. This Act shall be deemed to have been in force on and since the thirty-first day of January, 1907, and the said schedule A shall be construed as if the words added by this Act had always been therein contained.

THE ALBERTA ACT
4-5 EDWARD VII.

CHAPTER 3.

An Act to establish and provide for the Government of the Province of Alberta.

(*Assented to July* 20, 1905.)

WHEREAS in and by *The British North America Act*, 1871, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of her late Majesty Queen Victoria, it is enacted that the Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such province, and for the passing of laws for the peace, order and good government of such Province and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described, and to make provision for the government thereof and the representation thereof in the Parliament of Canada;

Therefore His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. This Act may be cited as "*The Alberta Act.*"

2. The territories comprised within the following boundaries, that is to say,—commencing at the intersection of the International boundary dividing Canada from the United States of America by the fourth meridian in the system of Dominion lands surveys; thence westerly along the said international boundary to the eastern boundary of the Province of British Columbia; thence northerly along the said eastern boundary of the Province of British Columbia to the north-east corner of the said province; thence easterly along the said parallel of the sixtieth degree of north latitude to the fourth meridian in the system of Dominion lands surveys as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth Meridian to the point of commencement —is hereby established as a province of the Dominion of Canada, to be called and known as the Province of Alberta.

3. The provisions of *The British North America Acts*, 1867 to 1886, shall apply to the Province of Alberta in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said Province of

Alberta had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.

5. The said province and the Province of Saskatchewan shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the Statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the North-West Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member.

6. Upon the completion of the next quinquennial census for the said province, the representation thereof shall forthwith be readjusted by the Parliament of Canada in such a manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded, and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the Parliament then existing.

2. The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of *The British North America Act*, 1867.

7. Until the Parliament of Canada otherwise provides, the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis*, be those prescribed by law at the time this Act comes into force with respect to such elections in the North-West Territories.

8. The Executive Council of the said province shall be composed of such persons, under such designations, as the Lieutenant Governor from time to time thinks fit.

9. Unless and until the Lieutenant Governor in Council of the said province otherwise directs, by proclamation under the Great Seal, the seat of government of the said province shall be at Edmonton.

10. All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant Governor of the North-West Territories, with the advice, or with the advice and consent, of the Executive Council thereof, or in conjunction with that Council or with any member or members thereof, or by the said Lieutenant Governor individually, shall, so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province, be vested in and shall or may be exercised by the Lieutenant Governor of the said province, with the advice, or with the advice and consent of, or in conjunction with, the Executive Council of the said province or any member or members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless to be abolished or altered by the Legislature of the said province.

11. The Lieutenant Governor in Council shall, as soon as may be after this Act comes into force, adopt and provide a Great Seal of the said province, and may, from time to time, change such seal.

12. There shall be a Legislature for the said province consisting of the Lieutenant Governor and one house, to be styled the Legislative Assembly of Alberta.

13. Until the said Legislature otherwise provides, the Legislative Assembly shall be composed of twenty-five members to be elected to represent the electoral divisions defined in the schedule to this Act. (NOTE: *See* 1909, c. 2, as amended by 1913, c. 2, for new electoral districts).

14. Until the said Legislature otherwise determines, all the provisions of the law with regard to the constitution of the Legislative Assembly of the North-West Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the elections of members thereof respectively.

15. The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant Governor and made returnable within six months after this Act comes into force.

16. All laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the Province of Alberta, shall continue in the said province as if this Act and *The Saskatchewan Act* had not been passed; subject nevertheless except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the

Parliament of Canada, or by the Legislature of the said province, according to the authority of the Parliament or of the said Legislature: Provided that all powers, authorities and functions which under any law, order or regulation were, before the coming into force of this Act, vested in or exercisable by any public officer or functionary of the North-West Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

2. The Legislature of the province may, for all purposes affecting or extending to the said province, abolish the Supreme Court of the North-West Territories, and the offices both judicial and ministerial thereof, and the jurisdiction, powers and authority belonging or incident to the said court: Provided that, if, upon such abolition, the Legislature constitutes a superior court of criminal jurisdiction, the procedure in criminal matters then obtaining in respect of the Supreme Court of the North-West Territories shall, until otherwise provided by competent authority, continue to apply to such superior court, and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

3. All societies or associations incorporated by or under the authority of the Legislature of the North-West Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of, or the right to practise, any profession or trade in the North-West Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue, subject, however, to be dissolved and abolished by order of the Governor in Council, and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities, and the division, disposition or transfer of its property.

4. Every joint stock company lawfully incorporated by or under the authority of any Ordinance of the North-West Territories shall be subject to the legislative authority of the Province of Alberta if—

(*a*) The head office or the registered office of such company is at the time of the coming into force of this Act situate in the Province of Alberta; and

(*b*) The powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorized to be executed in any part of the North-West Territories beyond the limits of the said province.

17. Section 93 of *The British North America Act*, 1867, shall apply to the said province, with the substitution for paragraph (1) of the said section 93 of the following paragraph:

"(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to the separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the North-West Territories, passed in the year 1901, or with respect to religious instruction in any public or separate school as provided for in the said Ordinances."

2. In the appropriation by the Legislature or distribution by the Government of the province of any moneys for the support of schools organized and carried on in accordance with the said chapter 29, or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

3. Where the expression "by law" is employed in paragraph (3) of the said section 93, it shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression "at the union" is employed, in the said paragraph (3), it shall be held to mean the date at which this Act comes into force.

18. The following amounts shall be allowed as an annual subsidy to the Province of Alberta, and shall be paid by the Government of Canada, by half-yearly instalments in advance, to the said province, that is to say:

(*a*) For the support of the Government and Legislature, fifty thousand dollars;

(*b*) On an estimated population of two hundred and fifty thousand, at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say: A census of the said province shall be taken in every fifth year reckoning from the general census of one thousand nine hundred and one, and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population by any such census or estimate, exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly, and so on until the population has reached eight hundred thousand souls.

19. Inasmuch as the said province is not in debt, it shall be entitled to be paid and to receive from the Government of Canada, by half-yearly payments in advance, an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent. per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

20. Inasmuch as the said province will not have the public land as the source of revenue, there shall be paid by Canada to the province by half-yearly payments, in advance, an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand, shall be three hundred and seventy thousand dollars;

Thereafter, until such population reaches eight hundred thousand, the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand, the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

2. As an additional allowance in lieu of public lands, there shall be paid by Canada to the province annually by half-yearly payments in advance, for five years from the time this Act comes into force, to provide for the construction of necessary public buildings, the sum of ninety-three thousand seven hundred and fifty dollars.

21. All Crown lands, mines and minerals and royalties incident thereto, and the interest of the Crown in the waters within the province under *The North-West Irrigation Act*, 1898, shall continue to be vested in the Crown and administered by the Government of Canada for the purposes of Canada, subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-West Territories.

22. All properties and assets of the North-West Territories shall be divided equally between the said province and the Province of Saskatchewan, and the two provinces shall be jointly and equally responsible for all debts and liabilities of the North-West Territories: Provided that, if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities, such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant Governor in Council of each province and the third by the Governor in Council. The selection of such arbitrators shall not be made until the legislatures of the provinces have met, and the arbitrator chosen by Canada shall not be resident of either province.

23. Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the Crown.

24. The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the Statutes of 1881, being *An Act respecting the Canadian Pacific Railway Company*.

25. This Act shall come into force on the first day of September, one thousand nine hundred and five.

SCHEDULE.

(*Section* 13.)

The Province of Alberta shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions, these expressions mean the meridians, boundaries of townships or boundaries of sections, as the case may be, in accordance with the Dominion lands system of surveys, and include the extension thereof in accordance with the said system.

Names and Descriptions of Divisions.

(1) The electoral division of Medicine Hat, bounded as follows:

Commencing at the intersection of the eastern boundary of the said Province of Alberta by the north boundary of the 38th township; thence westerly along the north boundary of the 38th townships to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the meridian between the 10th and 11th ranges to the southern boundary of the said Province of Alberta; thence easterly along the said southern boundary of the Province of Alberta to the south-east corner thereof; thence northerly along the eastern boundary of the said Province of Alberta to the point of commencement.

(2) The electoral division of Cardston, bounded as follows:

Commencing at the southern boundary of the said Province of Alberta where it is intersected by the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 5th township; thence westerly along the north boundary of the 5th township to the St. Mary River; thence along the St. Mary River up stream to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve to the meridian between the 27th and 28th ranges west of the 4th meridian; thence southerly along the said meridian between the 27th and 28th ranges to the north boundary of the 2nd township; thence westerly along the north boundary of the 2nd townships to the meridian between the 29th and 30th ranges west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the southern shore of the Waterton Lakes; thence in a westerly and southerly direction and following the southerly and eastern shores of the said Waterton Lakes to the southern boundary of the said Province of Alberta; thence easterly along the said southern boundary of the Province of Alberta to the point of commencement.

(3) The electoral division of Lethbridge, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 5th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 14th township; thence westerly along the north boundary of the 14th townships to the Bow River; thence along the Bow River up stream to the north boundary of the 19th township; thence westerly along the north boundary of the 19th townships to the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence southerly along the said meridian

between the 22nd and 23rd ranges to the Belly River; thence along the Belly River down stream to the St. Mary River; thence along the St. Mary River up stream to the north boundary of the 5th township; thence easterly along the north boundary of the 5th townships to the point of commencement.

(4) The electoral division of Macleod, bounded as follows:

Commencing at the south boundary of the Blood Indian Reserve where it is intersected by the St. Mary River; thence along the said St. Mary River down stream to the Belly River; thence along the said Belly River up stream to its most northerly intersection with the meridian between the 22nd and 23rd ranges, west of the 4th meridian; thence northerly along the said meridian between the 22nd and 23rd ranges to the north boundary of the 14th township; thence westerly along the north boundary of the 14th townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 11th township; thence easterly along the said north boundary of the 11th township to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 10th township; thence easterly along the said north boundary of the 10th township to the meridian between the 29th and 30th ranges, west of the 4th meridian; thence southerly along the said meridian between the 29th and 30th ranges to the north boundary of the 8th township; thence easterly along the said north boundary of the 8th township to the west boundary of the Peigan Indian Reserve; thence southerly along the west boundary of the Peigan Indian Reserve to the south-west corner of the said Peigan Indian Reserve; thence easterly along the south boundary of the said Peigan Indian Reserve to the south-east corner of the said reserve; thence in a straight line south-easterly to the north-east corner of section 14 in the 6th township in the 27th range, west of the 4th meridian; thence along the north boundary of section 13 in the said 6th township and in the 27th range to the meridian between the 26th and 27th ranges, west of the 4th meridian; thence southerly along the said meridian between the 26th and 27th ranges to the Belly River; thence along the Belly River up stream to the south boundary of the said Blood Indian Reserve; thence easterly along the said south boundary of the Blood Indian Reserve to the point of commencement.

(5) The electoral division of Pincher Creek, bounded as follows:

Commencing at the southern boundary of the said Province of Alberta, where it is intersected by the eastern shore of the Waterton Lakes, thence northerly and easterly and along the said eastern shores and the southern shores of the Waterton Lakes to the meridian between the 29th and 30th ranges, west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 2nd township; thence easterly along the said north boundary of the 2nd townships to the meridian between the 27th and 28th ranges west of the 4th meridian; thence northerly along the said meridian between the 27th and 28th ranges to the south boundary of the Blood Indian Reserve; thence westerly along the said south boundary of the Blood Indian Reserve

to the Belly River; thence along the said Belly River down stream to the meridian between the 26th and 27th ranges west of the 4th meridian; thence northerly along the said meridian between the 26th and 27th ranges to the north-east corner of section 13 in the 6th township in the said 27th range; thence westerly along the north boundary of the said section 13 to the north-east corner of section 14 in the said 6th township in the 27th range; thence in a straight line north-westerly to the south-east corner of the Peigan Indian Reserve; thence westerly along the south boundary of the said Peigan Indian Reserve to the south-west corner of the said Indian Reserve; thence northerly along the west boundary of the said Indian Reserve to the north boundary of the 8th township; thence westerly along the said north boundary of the 8th townships to the meridian between the 29th and 30th ranges, west of the 4th meridian; thence northerly along the said meridian between the 29th and 30th ranges to the north boundary of the 10th township; thence westerly along the said north boundary of the 10th township to the 5th meridian; thence northerly along the said 5th meridian to the north boundary of the 11th township; thence westerly along the said north boundary of the 11th townships to the western boundary of the said Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the southern boundary of the said Province of Alberta; thence easterly along the said southern boundary of the Province of Alberta to the point of commencement.

(6) The electoral division of Gleichen, bounded as follows: Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the northern boundary of the 14th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th townships to the meridian between the 2nd and 3rd ranges, west of the 5th meridian; thence southerly along the said meridian between the 2nd and 3rd ranges, to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to Bow River; thence along the said Bow River down stream to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement. Excepting and reserving out of the said electoral division the City of Calgary, as incorporated by Ordinances of the North-West Territories.

(7) The electoral division of Calgary City, comprising the City of Calgary as incorporated by Ordinance of the North-West Territories.

(8) The electoral division of Rosebud, bounded as follows: Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 28th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 33rd township; thence westerly along the said north boundary of the 33rd townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 28th township; thence

easterly along the said north boundary of the 28th townships to the point of commencement.

(9) The electoral division of High River, bounded as follows:

Commencing at the meridian between the 22nd and 23rd ranges, west of the 4th meridian, where it is intersected by the north boundary of the 14th township; thence northerly along the said meridian between the 22nd and 23rd ranges to the north boundary of the 19th township; thence easterly along the said north boundary of the 19th townships to the Bow River; thence along the said Bow River up stream to the north boundary of the 22nd township; thence westerly along the said north boundary of the 22nd townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 14th township; thence easterly along the said north boundary of the 14th townships to the point of commencement.

(10) The electoral division of Banff, bounded as follows:

Commencing at the meridian between the 2nd and 3rd ranges, west of the 5th meridian, where it is intersected by the north boundary of the 22nd township; thence northerly along the said meridian between the 2nd and 3rd ranges to the north boundary of the 28th township; thence westerly along the said north boundary of the 28th townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 22nd township; thence easterly along the said north boundary of the 22nd townships to the point of commencement.

(11) The electoral division of Innisfail, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 33rd township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of section twenty-four in the 36th township; thence westerly along the section line which bounds on the north the section comprising the most southerly two-thirds of the 36th townships to the Red Deer River, in the 28th range, west of the 4th meridian; thence along the said Red Deer River down stream to the north boundary of section twenty-two, in the 37th township; thence westerly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 33rd township; thence easterly along the north boundary of the 33rd townships to the point of commencement.

(12) The electoral division of Red Deer, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of section 24, in the 36th township; thence northerly along the said meridian between the 10th and 11th ranges to the said north boundary of the 38th township; thence westerly along the said north boundary of the 38th townships to where the said north boundary of the 38th townships is intersected by the Red Deer River in the 26th range, west of

the 4th meridian; thence along the said Red Deer River up stream to the Blindman River; thence along the said Blindman River up stream to the north boundary of the 39th township; thence westerly along the said north boundary of the 39th townships to the North Saskatchewan River; thence along the North Saskatchewan River up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th townships; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 37th townships to the Red Deer River; thence along the Red Deer River up stream to the north boundary of section twenty, in the 36th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the said 36th townships to the point of commencement.

(13) The electoral division of Vermilion, bounded as follows:

Commencing at the eastern boundary of the Province of Alberta where it is intersected by the north boundary of the 38th township; thence northerly along the said eastern boundary of the Province of Alberta to the North Saskatchewan River; thence along the North Saskatchewan River up stream to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 54th township; thence westerly along the said north boundary of the 54th townships to the meridian between the 19th and 20th ranges, west of the 4th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of section twenty-four, in the 47th township; thence easterly along the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th townships to the point of commencement.

(14) The electoral division of Lacombe, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 38th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 41st township; thence westerly along the said north boundary of the 41st townships to the North Saskatchewan River; thence along the said North Saskatchewan River up stream to the north boundary of the 39th township; thence easterly along the said north boundary of the 39th townships to the Blindman River; thence along the said Blindman River down stream to the Red Deer River; thence along the said Red Deer River down stream to the north boundary of the 38th township; thence easterly along the said north boundary of the 38th townships to the point of commencement.

(15) The electoral division of Ponoka, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 41st township; thence northerly along the said meridian between the 10th and 11th ranges to the north

boundary of the 44th township; thence westerly along the north boundary of the 44th townships to the North Saskatchewan River; thence along the said North Saskatchewan River up stream to the north boundary of the 41st township; thence easterly along the said north boundary of the 41st townships to the point of commencement.

(16) The electoral division of Wetaskiwin, bounded as follows:

Commencing at the meridian between the 10th and 11th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 44th township; thence northerly along the said meridian between the 10th and 11th ranges to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence westerly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the North Saskatchewan River; thence along the said North Saskatchewan River up stream to the north boundary of the 44th township; thence easterly along the said north boundary of the 44th townships to the point of commencement.

(17) The electoral division of Leduc, bounded as follows:

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 50th township; thence westerly along the said north boundary of the 50th townships to where the said north boundary of the 50th townships first intersects the North Saskatchewan River; thence along the North Saskatchewan River up stream to the section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th township; thence easterly along the said section line which bounds on the north the sections comprising the most southerly two-thirds of the 47th townships to the point of commencement.

(18) The electoral division of Strathcona, bounded as follows:

Commencing at the meridian between the 19th and 20th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 50th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd townships to the North Saskatchewan River; thence along the said North Saskatchewan River up stream to the north boundary of the 50th township; thence easterly along the said north boundary of the 50th townships to the point of commencement.

(19) The electoral division of Stoney Plain, bounded as follows:

Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 53rd township; thence westerly along the said north boundary of the 53rd township to the rear line of lots fronting on the east side of the Sturgeon River in the Saint Albert Settlement; thence in a southerly and westerly direction and along the said rear line to Big Lake; thence in a westerly direction and along the southerly, westerly

and northerly shores of Big Lake to the south-west corner of lot D in the Saint Albert Settlement; thence westerly and along the southerly limit of lots E, F, G, H and I in the said Saint Albert Settlement to the south-east corner of the Indian Reserve Chief Michel Calahoo; thence westerly along the south boundary of the said Indian Reserve to the south-west corner thereof; thence northerly along the west boundary of the said Indian Reserve to the north boundary of the 54th township; thence westerly along the said north boundary of the 54th townships to the 5th meridian; thence northerly along the said 5th meridian to the south boundary of the Indian Reserve Chief Alexander; thence westerly along the south boundary of the Indian Reserve Chief Alexander to the south-west corner of the said Reserve; thence northerly along the west boundary of the said Reserve Chief Alexander to the north boundary of the 55th township; thence westerly along the north boundary of the 55th townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th township; thence easterly along the said section line which forms the north boundary of the sections comprising the most southerly two-thirds of the 37th townships to the North Saskatchewan River; thence along the said North Saskatchewan River down stream to its most northerly intersection with the meridian between the 24th and 25th ranges west of the 4th meridian; thence northerly along the said meridian between the 24th and 25th ranges to the point of commencement.

(20) The electoral division of Edmonton City, comprising the City of Edmonton as incorporated by Ordinance of the North-West Territories.

(21) The electoral division of Victoria, bounded as follows: Commencing at the 4th meridian where it is intersected by the North Saskatchewan River; thence northerly along the said 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 10th and 11th ranges west of the 4th meridian; thence southerly along the said meridian between the 10th and 11th ranges to the north boundary of the 58th township; thence westerly along the said north boundary of the 58th townships to the North Saskatchewan River; thence along the said North Saskatchewan River up stream to the north boundary of the 53rd township; thence easterly along the said north boundary of the 53rd township to the meridian between the 19th and 20th ranges, west of the 4th meridian; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 54th township; thence easterly along the said north boundary of the 54th townships to the meridian between the 10th and 11th ranges, west of the 4th meridian; thence northerly along the said meridian between the 10th and 11th ranges to the North Saskatchewan River; thence along the said North Saskatchewan River down stream to the point of commencement.

(22) The electoral division of Sturgeon, bounded as follows: Commencing at the meridian between the 10th and 11th

ranges, west of the 4th meridian, where it is intersected by the north boundary of the 58th township; thence northerly along the said meridian between the 10th and 11th ranges to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the meridian between the 24th and 25th ranges, west of the 4th meridian; thence southerly along the said meridian between the 24th and 25th ranges to the North Saskatchewan River; thence along the said North Saskatchewan River down stream to the north boundary of the 58th township; thence easterly along the said north boundary of the 58th townships to the point of commencement. Excepting and reserving out of the said electoral division the City of Edmonton as incorporated by Ordinance of the North-West Territories.

(23) The electoral division of Saint Albert, bounded as follows: Commencing at the meridian between the 24th and 25th ranges, west of the 4th meridian, where it is intersected by the north boundary of the 53rd township; thence northerly along the said meridian between the 24th and 25th ranges west of the 4th meridian to the north boundary of the 70th township; thence westerly along the said north boundary of the 70th townships to the western boundary of the Province of Alberta; thence in a southerly direction and along the said western boundary of the Province of Alberta to the north boundary of the 55th township; thence easterly along the said north boundary of the 55th township to the Indian Reserve Chief Alexander; thence southerly along the western boundary of the said Indian Reserve Chief Alexander to the south-west corner of the said reserve thence easterly along the south boundary of the said Indian Reserve Chief Alexander to the 5th meridian; thence southerly along the said 5th meridian to the north boundary of the 54th township; thence easterly along the said north boundary of the 54th township to the west boundary of the Indian Reserve Chief Michel Calahoo; thence southerly along the west boundary of the said Indian Reserve Chief Michel Calahoo to the south-west corner thereof; thence easterly along the south boundary of the said Indian Reserve Chief Michel Calahoo to the south-east corner thereof; thence in an easterly direction and along the southern limit of lots I, H, G, F and E in the Saint Albert Settlement to the south-west corner of lot D in the said Settlement; thence along the westerly and southerly shores of Big Lake in a westerly, southerly and easterly direction to the rear line of lot 55 in the said Saint Albert Settlement; thence in an easterly direction and along the rear line of lots fronting on the east side of the Sturgeon River in the said Saint Albert Settlement to the north boundary of the 53rd township; thence easterly along the north boundary of the 53rd township to the point of commencement.

(24) The electoral division of Peace River, bounded as follows: Commencing at the meridian between the 19th and 20th ranges, west of the 5th meridian, where it is intersected by the north boundary of the 70th township; thence northerly along the said meridian between the 19th and 20th ranges to the north boundary of the 80th township; thence easterly along the said north boundary of the 80th townships to the meridian between the 13th and 14th ranges, west of the 5th

meridian; thence northerly along the said meridian between the 13th and 14th ranges to the north boundary of the 92nd township; thence easterly along the said north boundary of the 92nd townships to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence northerly along the said meridian between the 20th and 21st ranges to the northern boundary of the Province of Alberta; thence westerly along the said northern boundary of the Province of Alberta to the north-west corner of the said province; thence in a southerly direction and along the western boundary of the said Province of Alberta to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th townships to the point of commencement.

(25) The electoral division of Athabasca, bounded as follows: Commencing at the eastern boundary of the Province of Alberta where it is intersected by the north boundary of the 70th township; thence northerly along the said eastern boundary of the Province of Alberta to the northern boundary of the said province; thence westerly along the said northern boundary of the Province of Alberta to the meridian between the 20th and 21st ranges, west of the 4th meridian; thence southerly along the said meridian between the 20th and 21st ranges to the north boundary of the 92nd township; thence westerly along the said north boundary of the 92nd townships to the meridian between the 13th and 14th ranges, west of the 5th meridian; thence southerly along the said meridian between the 13th and 14th ranges, west of the 5th meridian to the north boundary of the 80th township; thence westerly along the said north boundary of the 80th townships to the meridian between the 19th and 20th ranges, west of the 5th meridian; thence southerly along the said meridian between the 19th and 20th ranges to the north boundary of the 70th township; thence easterly along the said north boundary of the 70th townships to the point of commencement.

NOTE: The above electoral divisions have now been changed. *See* 1909, cap. 2, as amended by 1913 (1st Session), cap. 2, Schedule I.

CHRONOLOGICAL TABLE WITH

(LIST OF ABBREVIATIONS: SUB.—SUBSTITUTED;

CHAPTER	SUBJECT MATTER	1906	1907	1908	1909
1	Interpretation	C. 3 sub.	C. 5, s. 1 am.	C. 20, s. 9 am	
2	Legislative Assembly	C. 38 am.	C. 5, s. 2 am.		C. 2 sub.
3	Elections				C. 3 sub.
4	Controverted Elections		C. 2 sub.		C. 4, s. 12 am
5	Public Service	C. 4 sub.	C. 5, s. 3 am.		
6	Attorney General's Dept.	C. 6 sub.			
7	Territorial (Provincial) Sec.	C. 7 sub.			
8	Agriculture Department	C. 8 sub.			
9	Public Works Dept.	C. 10 sub.	C. 5, s. 4 am.		C. 4, s. 7 am.
10	Treasury and Audit Dept.	C. 5 sub.			
11	Public Printing Dept.	C. 9 sub.			
12	Public Inquiries			C. 2 sub.	
13	Security by Public Officers.			C. 10 sub.	
14	Vital Statistics		C. 13 sub.	C. 20, s. 23 am	
15	Expropriation (Repealed 1901)				
16	Coal Mining Regulations	C. 25 sub.		C. 20, s. 16 am	
17	Steam Boilers Inspection	C. 23 sub.	C. 5, s. 18 am	C. 20, s. 14 am	C. 5, s. 8 am.
18	Ferries (Repealed 1901)				
19	Public Health	C. 40 am.	C. 12 sub.	C. 20, s. 22 am	
20	Hospitals		C. 5, s. 12 am		
21	Judicature		C. 5, s. 7 am.	C. 20, s. 1 am	C. 4, s. 1 am.
22	Clerks	C. 18 sub.	C. 5, s. 6 am.		C. 4, s. 9 am.
23	Sheriffs	C. 17 sub.	C. 5, s. 5 am.	C. 20, s. 11 am	C. 11 sub.
24	Commissioners	C. 14 sub.			
25	Notaries Public	C. 16 sub.			
26	Creditors' Relief				
27	Exemptions				
28	Juries				
29	Alimony				
30	Slander				
31	Limitation of Actions				
32	Justices of the Peace	C. 13 sub.	C. 5, s. 9 am.	C. 20, s. 10 am	C. 4, s. 8 am.
33	Constables			C. 4 sub.	C. 7 sub.
34	Distress				C. 4, s. 2 am.
35	Arbitration				C. 6 sub.
36	Investigation of Fires				
37	Tenancy in Common				
38	Religious Societies, Lands.		C. 22 am.		
39	Sales of Goods				
40	Factors and Agents				
41	Choses in Action		C. 5, s. 8 rep.		
42	Preferential Assignments		C. 6 sub.		C. 4, s. 14 am
43	Bills of Sale		C. 5, s. 10 am		C. 4, s. 3 am.
44	Conditional Sales			C. 20, s. 2 am	
45	Partnerships, Registration of			C. 5 sub.	
46	Marriages				
47	Married Women's Property				
48	Compensation for Injuries.				
49	Insurance for Wife and Children				
50	Masters and Servants				C. 4, s. 4 am.
51	Legal Profession		C. 20 sub.	C. 20, s. 29 am	C. 5, s. 14 am
52	Medical Profession	C. 28 sub.		C. 20, s. 31 am	
53	Dentistry	C. 22 sub.		C. 20, s. 13 am	
54	Chemists and Druggists				
55	Veterinary Surgeons	C. 57 sub.			
56	Hotels and Boarding Houses				

—AND STATUTES OF ALBERTA.

SUBSTITUTIONS AND AMENDMENTS.

AM.—AMENDING; AFF.—AFFECTING; REP.—REPEALING).

1910 (2nd Session)	1911-12	1913 (1st Session)	1913 (2nd Session)	1914	1915
C. 2, s. 11 am.		C. 9, s. 11 am.		C. 2, s. 5 am	
	C. 4, s. 32 am.	C. 9, s. 20; C. 2	C. 2, s. 28		
C. 2, s. 22 am.	C. 4, s. 33	C. 9, s. 21			
	C. 4, s. 12			C. 2, s. 25	
	C. 4, s. 13		C. 2, s. 7		
					C. 2, s. 3.
	C. 12				
	C. 4, s. 24		C. 2, s. 15		
C. 2, s. 13 am.		C. 4 sub			
	C. 9 sub	C. 9, s. 33		C. 2, s. 17	
C. 17 sub	C. 4, s. 39	C. 9, s. 30			
C. 2, s. 2 am.	C. 4, s. 4				
C. 2, s. 3 am.	C. 4, s. 2	C. 9, s. 37		C. 2, s. 1	
				C. 2, s. 7	
		C. 9, s. 22	C. 2, s. 19		
			C. 11 sub		C. 2, s. 24.
				C. 2, s. 6	C. 2, ss. 7; 28.
C. 4 sub	C. 4, s. 37	C. 9, s. 28			
			C. 12, rep. & sub		
	C. 4, s. 14				C. 2, s. 12.
C. 2, s. 4 am.				C. 4	
	C. 4, s. 20				
C. 2, s. 5 am.					C. 2, s. 11.
			C. 2, s. 4		
C. 18 aff					C. 4 aff.
	C. 4, s. 11				
	C. 4, s. 29	C. 9, s. 42			
C. 2, s. 14 am.	C. 4, s. 16; C. 27		C. 2, s. 10		C. 2, s. 26.
	C. 28	C. 9, s. 12	C. 2, s. 29	C. 2, s. 8	
C. 38 sub					

CHAPTER	SUBJECT MATTER	1906	1907	1908	1909
57	Livery Sales Stables				
58	Auctioneers, Hawkers and Pedlers				
59	Mechanics' Liens	C. 21 sub	C. 5, s. 17 am	C. 20, s. 12 am	C. 4, s. 10 am
60	Threshers' Liens				
61	Companies		C. 5, s. 13 am	C. 20, s. 3 am	C. 5, s. 1 am.
62	Changing Names of Companies (Repealed 1901)				
63	Foreign Companies		C. 5, s. 15 am	C. 20, s. 4 am	C. 4, s. 5 am.
64	Mining Companies (Repealed 1901)				
65	Dairy Associations		C. 16 sub	C. 20, s. 25 am	
66	Benevolent Societies				
67	Mechanics' Institutes			C. 16 sub	
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TO THE

ORDINANCES

OF THE

NORTH-WEST TERRITORIES

WITH

AMENDMENTS MADE BY STATUTES OF
THE PROVINCE OF ALBERTA,
UP TO AND INCLUDING

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INDEX

TO THE

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OF THE

NORTH-WEST TERRITORIES

With Amendments made by Statutes of the Province of Alberta, up to and including

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